The Planning Inspectorate

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Planning Appeals
Wiltshire Council
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Your Ref: PL/2023/05387
Our Ref: APP/Y3940/W/24/3342759

18 December 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Melbury Developments (South West) Ltd
Site Address: Land at Littledown, (Easting 38700, Northing 124850), Shaftesbury, SP7 9HD

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

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https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

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

Yours sincerely,

Jenni Ball
Jenni Ball

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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

Planning Inspectorate

Appeal Decision

Site visit made on 19 November 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/Y3940/W/24/3342759
Land east of the A350, Shaftesbury SP7 9HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr David Fear (West Melbury Farm Ltd) against the decision of Wiltshire Council.
- The application Ref is PL/2023/05387.
- The development proposed is the conversion and re-use of a redundant rural building for economic development B2/B8 use and amendments to the design of the building approved under PL/2021/05261 (part retrospective).

Decision

1. The appeal is allowed and planning permission is granted for the conversion and re-use of a redundant rural building for economic development B2/B8 use and amendments to the design of the building approved under PL/2021/05261 (part retrospective) at Land east of the A350, Shaftesbury, SP7 9HD in accordance with the terms of the application, Ref PL/2023/05387, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr David Fear (West Melbury Farm Ltd) against Wiltshire Council. This application will be the subject of a separate decision.

Preliminary Matters

3. A revised version of the National Planning Policy Framework (the Framework) was published on 12th December 2024. However, the parts of the Framework that are of most relevance to this appeal, in particular paragraph 89, remain unchanged. As such, I have not found it necessary to consult the main parties on this matter.

4. During the course of the application, the description of development was amended. As such, I have used the description as provided on the decision notice and the appellant's appeal form.

5. I observed on my site visit that the appearance of the barn itself already largely reflects the approved plans, with the exception of the modest extension on the northern side of the barn. The proposal is therefore part-retrospective.

Main Issues

6. The main issue is whether the proposed development would be in a suitable location, taking account of relevant development plan policies and its effect on

character and appearance, including the scenic beauty of the Cranborne Chase and West Wiltshire Downs National Landscape.

Reasons

The Suitability of the Location

7. In general terms, the Council's adopted spatial strategy seeks to direct new development towards sustainable locations such as the main settlements or larger villages. In part, this is to encourage the use of sustainable forms of transport as required by Policies CP60 and CP61 of the Wiltshire Core Strategy, 2015 (the CS).

8. However, it is absolutely clear that the development plan must be read as a whole. Indeed, in addition to proposals that accord with the general spatial strategy for the area, other policies allow further forms of development. Policy CP48 provides a set of tests that are very specific to the conversion and re-use of rural buildings. Development proposals that meet the requirements of this policy are therefore likely to be appropriate in principle, even if they may not conform with some aspects of the adopted spatial strategy more generally. For this reason, I am firmly of the view that it is Policy CP48 that is central to the consideration of this main issue, rather than Policies CP34, CP60 and CP61.

9. Based on the Council's decision notice, there appears to have been no dispute between the main parties that the proposal would conform with Parts (i), (iii) and (v) of Policy CP48. Based on the evidence before me, I have no reason to disagree. I do note that the Council's appeal statement has subsequently raised some concerns with regards to highway matters. These have been addressed separately in this decision under 'Other Matters' given that this issue did not form a reason for refusal.

10. Part (iv) of the policy sets a slightly lower bar than is perhaps the case for other forms of development, in that the conversion or re-use of rural buildings only need to have reasonable access to local services. This is reflective of paragraph 89 of the Framework which recognises that sites to meet local business needs might be located in areas that are not well served by public transport. In this instance, the appeal site is situated in very close proximity to a multitude of services and facilities within Shaftesbury. This part of the policy is therefore satisfied.

11. Part (ii) of the policy requires that the use would not detract from the character and appearance of the landscape. In addition, in this instance, the appeal site forms part of the Cranborne Chase and West Wiltshire Downs National Landscape (the NL). Paragraph 189 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty within NL's. Furthermore, Section 85 of The Countryside and Rights of Way Act 2000 (the CRoW Act) requires all relevant authorities to have regard to the purpose of conserving and enhancing the natural beauty of NL's when performing their functions. This has been strengthened by the Levelling Up and Regeneration Act 2023 (the LURA Act) which states that relevant authorities must seek to further the purpose of conserving and enhancing the natural beauty of the NL.

12. The appeal site is located on the very edge of the NL boundary. Therefore, while it is within the open countryside, the character of the immediate area is heavily influenced by the proximity of Shaftesbury, and in particular the nearby business parks, as well as the busy A350 road. The site is also fairly well contained within

the landscape and does not appear to be subject to longer range views or have a significant sense of openness. As such, I find that the site does not quite share the same feeling of tranquillity or visual quality that is perhaps characteristic of the wider NL landscape.

13. The development has already been partly implemented in the sense that the changes to the barn that are shown on the approved plans have largely been made. These changes include infilling of a side elevation and the installation of several doors. In combination, the totality of the works to the barn, including the proposed addition of a small extension on the north elevation, would be very minor and would not have any material effect on the character and appearance of the area.

14. It is proposed that the barn be used for employment purposes. It is therefore inevitable that there would be some increase in activity on the site. In addition, there would be an expanse of hard standing and parked cars at certain times of day. However, given the limited size of the barn, it seems likely to me that the employment activity on site would be insubstantial. Indeed, given that the site is located very close to an urban area, I find that the likely increase in activity, including parked cars, would not be of a sufficient level to represent harm, including for users of the adjacent public footpath.

15. This is particularly the case given the proposed planting and landscaping scheme which has the potential to improve the overall appearance of the site. The proposed planting, once matured, would also screen much of the activity taking place. I note that this reflects the conclusions of the appellant's Landscape and Visual Impact Assessment (LHC Design 2022). Based on the evidence before me, and from what I observed on my site visit, I have no reason to disagree with this document. Overall, I am satisfied that the proposal would not result in harm to character and appearance, and that in time, the scenic beauty of the NL in this area could be enhanced.

16. I therefore conclude that the site is within a suitable location, taking account of relevant development plan policies and its effect on character and appearance, including the scenic beauty of the Cranborne Chase and West Wiltshire Downs NL. It would therefore conform with CS Policies CP48 and CP51, the relevant aspects of which enable the conversion and re-use of rural buildings where character and appearance, including the scenic beauty of NL's, would be preserved. It would also satisfy the requirements of the CRoW and LURA Acts.

Other Matters

17. The appeal site is situated on a relatively narrow rural road known as Wincombe Lane. I note that the Highways Officer has not objected to the proposal although they do appear to have some reservations about the width of the lane and visibility at the junction with the A350. The appeal site is located only a short distance along Wincombe Lane from the junction and there are passing places along the route which would likely be adequate for larger vehicles. Furthermore, it seemed to me when turning north onto the A350 from Wincombe Lane that visibility in both directions was perfectly acceptable. I also note that the maintenance of the visibility splay in this area is the responsibility of the Highway Authority.

18. The Highways Officer has outlined that there have only been two instances of accidents causing injury at this junction over a five year period, one of which

involved a vehicle pulling out of Wincombe Lane. Despite the concerns of various parties in this regard, there is no substantive evidence before me that could lead me to conclude that the width of the lane, or the visibility at the junction with the A350, represent a risk to highway safety, or that the proposed development would increase any such risk. As a result, the proposal would conform with the relevant aspects of CS Policy CP61.

19. Several parties have sought to argue that the barn has only recently been built, that it is not redundant, and that it has never been used for agricultural purposes. However, CS Policy CP48 does not require the building to have been in place for a certain period of time, to be redundant or to have been in a certain use. The eventual use of the building is restricted to B2 and B8 uses. The identity of any companies who may eventually operate from the site is not a matter that I need to address as part of this appeal. In addition, any proposals to undertake further work on the site, or on other land in the area, would require separate planning approval.

20. Several respondents have raised concerns about lighting and noise and the impact on the character of the area and wildlife. However, these are matters that can be controlled via condition. Finally, while there are business parks nearby, there is no requirement in Policy CP48 that there must be a demonstrable need for the proposed employment floorspace.

Conditions

21. Given that the development has already commenced, I have not imposed the standard time condition. The relevant plans have been identified in the interests of certainty. Several conditions have been imposed in order to preserve character and appearance, including a requirement to build the extension and remove the existing shipping container within three months, and separate requirements in relation to storage, lighting, noise, deliveries and landscaping. A final condition has been imposed to ensure the visibility splay at the site access is acceptable.

Conclusion

22. The proposed development is in accordance with the development plan when considered as a whole. Having had regard to all matters raised, I conclude that the appeal should be allowed.

C Butcher

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans:
    - DWG No: 2259/3E Proposed Site Layout Plan, Elevations with Ecological Mitigation and Floor Plan Date Received 25.01.24;
    - DWG No: 23011 LHC-00-00-DR-A P2 Site Location Plan Date Received 10.07.23;
    - DWG No: 23011 LHC-00-XX-DR-L P6 Proposed Landscape Strategy Plan Date Received 10.01.24;
    - DWG No: 5870/001 Rev B Proposed Visibility Splays Plan Date Received 20.10.23;
    - DWG No: 5870/201 Rev B Proposed Swept Path Analysis Plan Date Received 20.10.23;
    - DWG No: 5870/202 Rev C Proposed Internal Track Delivery Vehicle Plan Date Received 20.10.23;
    - Noise Impact Assessment (Ref No: 10061/AW) by Acoustic Consultants Ltd date received 04.07.23.

2) Within three months of the date of this decision, the mono-pitched extension on the northern elevation of the building for the housing of the generator/plant equipment as shown on approved drawing DWG No: 2259/3E shall be erected in its entirety and the existing shipping container housing the generator/plant equipment shall be removed from the land.

3) No part of the development shall be first brought into use, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

4) Notwithstanding the Town and Country Planning (Use Classes) Order 2020 as amended (or any Order revoking and re-enacting this Order), the conversion of the building hereby approved shall be used solely for Class B2 and/or Class B8 use only. All commercial materials and items associated with this Class B2 and/or B8 use shall be stored at all times within the converted building with all other areas for turning, access and 10 parking spaces as shown on approved plan DWG No: 2259/3E remaining free from any storage associated with the use of the development hereby permitted. There shall be no external storage outside the converted building.

5) Notwithstanding the submitted lighting detail, any external lighting that is installed across the site shall be designed and implemented to minimise sky glow, glare and light trespass. It shall be designed in a downward facing position at all times and shall meet the criteria for Environmental Zone E0 as defined by the Institute of Lighting Professionals ‘Guidance Notes for the Reduction of Obtrusive Light’ 2012. Any external lighting installed at the site shall be retained and maintained as such thereafter for the lifetime of the development.

6) Prior to commencement of the approved Class B2 or Class B8 use of the site, an assessment of the acoustic impact arising from the operation of all proposed machinery and plant shall be undertaken in accordance with BS 4142:

+A1:2019. The assessment/report shall be submitted to the Local Planning Authority together with a scheme of attenuation measures to demonstrate the rated level of noise shall be 5dB below background and is protective of local amenity. Background levels are to be taken as a 15 minute LA90 at the boundary of the nearest residential noise-sensitive receptors. The scheme shall be submitted to and approved in writing by the Local Planning Authority. A post installation noise assessment shall be carried out within 3 months of completion of the development to confirm compliance with the noise criteria and additional steps required to achieve compliance shall be taken, as necessary. The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained.

7) Within three months of approved the Class B2 or Class B8 use first being brought into use, a report shall be submitted to and approved in writing confirming the rating level (LArTR) of the noise emitted from the proposed development shall not exceed the existing background noise level (LA90T). The rating level that shall be determined by measurement or calculation at the boundary of the nearest noise sensitive premises or at another location that is agreed with the local planning authority. Measurements shall be made in accordance with BS4142:2014 +A1:2019. Where the background levels are to be taken as a LA90 1 hour and the ambient noise levels shall be expressed as an LAeq 1 hour during the daytime [07:00 - 23:00] and shall be expressed as an LA90 and LAeq 5 minutes during the night [23:00 – 07:00] at the boundary of the nearest residential noise-sensitive receptors.

8) The use hereby permitted including deliveries being made to or collections being made from the development hereby approved shall only take place between the hours of 0800hrs – 1800hrs Monday to Friday, 0800hrs – 1700hrs Saturday, with no use, deliveries or collections on Sundays or bank/ public holidays.

9) All soft landscaping comprised in the approved details of the landscaping scheme shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner; All shrubs, trees and any other planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority

Planning Inspectorate

Costs Decision

Site visit made on 19 November 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Land east of the A350, Shaftesbury SP7 9HD
Costs application in relation to Appeal Ref: APP/Y3940/W/24/3342759

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr David Fear for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for the conversion and re-use of a redundant rural building for economic development B2/B8 use and amendments to the design of the building approved under PL/2021/05261 (part retrospective).

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. In this instance, the applicant has alleged that the Council refused an application that clearly should have been approved. I note that there is a very thorough officer report that recommended the application for approval. However, it is of course quite reasonable for Committee Members to disagree with any such report.

4. It does seem clear that Members did choose to ignore the most important policy for this proposal, Policy CP48 of the Core Strategy, which is a very specific policy concerning the re-use or conversion of rural buildings. Instead, they chose to focus on other more general policies. To my mind this is unreasonable behaviour as it is an example of failing to read the development plan as a whole.

5. Nevertheless, I have elected not to award costs against the Council because one of their main concerns was the effect of the proposal on character and appearance, including the scenic beauty of the National Landscape. Matters such as this are highly subjective, and it is not unreasonable for the Council to have refused the application on that basis. As a result, an appeal was always inevitable.

6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Butcher

INSPECTOR