



Appeal Decision

Site visit made on 18 December 2018

by Beverley Wilders BA (Hons) PgDurb MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th January 2019

Appeal Ref: APP/L3245/W/18/3200964

Jayroc Stables, Shawbury Heath, Shawbury SY4 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs R Hand against Shropshire Council.
 - The application Ref 17/00418/FUL, is dated 27 January 2017.
 - The development is horse walker (15m diameter); isolation unit; extensions to existing agricultural building.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposed site plan was amended prior to the submission of the appeal, altering the position of the isolation unit and horse walker. I have determined the appeal on the basis of the amended site plan. However whilst the site plan was altered, the application site edged red was not, a matter raised by the Council. The appellants have subsequently submitted an amended application site edged red and whilst this does not appear to have been the subject of publicity and consultation, I am satisfied that my acceptance of the amended site edged red would not prejudice the interest of any interested parties. This is particularly the case given that with the exception of the isolation unit which has been moved nearer to the existing complex, the position of the development is broadly similar to that as originally submitted. I have determined the appeal accordingly.
3. At my site visit I saw that a horse walker has been erected on site and appears to be in a similar position to as shown on the original site plan. In addition there was a timber building located adjacent to the horse walker between it and the existing stables. The timber building is not shown on the existing or proposed site plans and does not appear to form part of the application development. I have determined the development as shown on the submitted plans.

Application for costs

4. An application for costs was made by Mr & Mrs R Hand against Shropshire Council. This application is the subject of a separate Decision.

Background and Main Issues

5. The Council did not issue a decision within the prescribed period or within an agreed extended time period. The appellants exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
6. A statement has been submitted by the Council in response to the appeal stating that whilst the original officer dealing with the application had previously considered the development to be acceptable, following receipt of additional evidence from interested parties, it now has concerns regarding drainage and flooding issues at the site. A number of concerns have also been raised with regard to inconsistencies between the submitted plans and what has previously been approved and built on site.
7. Extensive representations have been made by a local resident both in respect of the application and appeal. These have raised a number of additional concerns including whether the development is adequately justified by the uses taking place on site.
8. Having regard to the evidence submitted by all parties, I consider that the main issues are:
 - whether adequate drainage could be provided for the development and whether it is likely to result in flooding;
 - whether the development is acceptable having regard to the site's countryside location.

Reasons

Drainage and flooding

9. Following the receipt of significant concerns and evidence from a local resident regarding alleged drainage issues at the site, the Council is not satisfied that the appellants have sufficiently demonstrated how drainage issues at the site would be dealt with following the development.
10. Policy CS18 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS) relates to sustainable water management and states, amongst other things, that development is expected to manage surface water and must not result in an increase in runoff.
11. It is alleged by a local resident that there are ongoing drainage and flooding issues at the site and that this is also causing issues off site. A number of photographs have been submitted to support this claim. The planning application form states that surface water will be disposed of by soakaways but the Council questions whether the use of soakaways would be possible at the site.
12. In response to the concerns raised regarding drainage, the appellants acknowledge that there were a number of drainage issues during winter 2017/18 but state that these were due to a particular series of events and that the issue was dealt with by the appellants at the time. It is stated that under normal circumstances the site is predominantly dry and that was the case at the time of my site visit. They state that the development the subject of this appeal would not result in excessive water run off with water from the horse

- walker going to ground and that water from the extension would be connected to the existing drainage system previously constructed.
13. Whilst I have had regard to the extensive amount of evidence produced by a local resident and whilst it appears that there have been some issues with drainage at the site, having regard to the scale and nature of the developments before me, I consider that there appears to be no reason why adequate drainage could not be provided to deal with any impact arising from the additional development. This could be secured by the imposition of a suitably worded condition. Subject to this I consider it unlikely that any additional flooding would arise from the development. I note that no objections were raised to the application by the Council's flood and water management team.
 14. However in order to ensure adequate drainage in connection with the development, I consider that a pre-commencement condition would be necessary. This is having regard to the nature of any surface drainage works that might be required. Whilst the Council has suggested that drainage details should be submitted within two months of the date of any permission granted, as the development the subject of this appeal did not appear to me to have been commenced and completed at the time of my site visit, then I consider that a pre-commencement condition would be necessary. Though the evidence suggests that the extension to the agricultural building may have now been completed, there is no evidence before me to demonstrate that what has been built is in compliance with the submitted plans. The horse walker on site is not in compliance with the submitted plans and all parties agree that the isolation unit has yet to be constructed. Under these circumstances I consider that a pre-commencement condition would be necessary.
 15. The appellant has been consulted regarding the requirement for such a condition and does not agree to it stating that it would not be enforceable due to the fact that the majority of the appeal development has been completed and is in use and as the surface water drainage facilities are already in situ. However as stated, from the evidence before me this does not appear to be the case. Whilst the appellants would be willing to accept a pre-commencement condition relating to the isolation unit, for the reasons stated above, I do not consider that this would sufficiently control matters of drainage associated with the development which is the subject of this appeal.
 16. Therefore taking the above matters into consideration, whilst I conclude that subject to a suitable scheme adequate drainage could be provided for the development, in the absence of the appellants' agreement to a pre-commencement condition regarding drainage for the development, this matter cannot be adequately controlled. The development is therefore contrary to Policy CS18 of the CS which relates to sustainable water management and requires development to reduce flood risk.

Principle of development

17. The appeal site comprises part of a larger site owned by the appellants. The wider site has an extensive planning history with the Council having granted planning permission for various agricultural and equestrian developments on the site, including the existing agricultural building which is to be extended. It appears that the site is in a mixed use comprising agriculture, equestrian and the parking/storage of HGVs in connection with another of the appellants'

- businesses. At the time of my visit a number of alpacas and horses were on the site with some of the horses using the horse walker.
18. The appellants state that an extension is required to the agricultural building to facilitate its use for the storage of animal bedding and foodstuffs grown elsewhere on the appellants' wider agricultural holding. The horse walker and isolation unit are required in connection with the equestrian use to enable horses to get sufficient exercise in winter and for animal health reasons. Whilst there is a manege on site, the appellants state that ongoing issues regarding the lighting of it means that they struggle to provide the horses with sufficient exercise using the manege alone in winter.
 19. Policy CS5 of the CS and Policy MD7b of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 (SAMDev) relate to new development in the countryside. They allow for agricultural related development and sustainable rural leisure proposals which require a countryside location. Agricultural development should be of a size/scale and type which is consistent with its required agricultural purpose and should be well designed.
 20. The extension to the agricultural building would be reasonably modest in scale relative to the existing building. It would have a similar lean-to appearance as the extension to the other side of the building. Though I note the concerns raised by a local resident about the alleged unauthorised use of the existing building for non-agricultural purposes and about the size and design of the proposed building, based on the appellants' evidence and from my observations on site, I am satisfied that the proposed extension is needed and has been designed for agricultural purposes and I do not consider that a forensic examination of the exact size and shape of the building is necessary to meet the policy requirements. Any existing or future concerns regarding the use of the building would be a matter for the Council to investigate and to act upon if required.
 21. Similarly though I note the Council's concerns regarding whether the agricultural building and previously approved extension haven been built in accordance with the approved plans, this matter is not before me and it appears that the Council did not raise the issue of the size of the original building when it granted planning permission for an extension to it in 2014 (Ref 13/04630/FUL). There are no dimensions shown on the plans of the agricultural building submitted with the application which is the subject of this appeal though the Council states that the existing building shown is larger than what has been permitted and that the design of the side extension differs. Whilst there are doubts as to the status of the existing building, I do not consider that this prevents me from reaching a finding on the extension, though it may affect the appellants' ability to implement any consent granted.
 22. The horse walker and re-positioned isolation unit would be sited within and near to the existing complex of buildings on the site and would therefore have minimal visual impact. They would be modest in scale and appearance relative to surrounding development and would be used in connection with the existing equestrian use at the site. I am therefore satisfied that they would form part of a sustainable rural leisure use requiring a countryside location.
 23. I note that the Council did not express any concerns regarding the justification for the development and taking the above matters into consideration, I

conclude that the development is acceptable having regard to the sites countryside location. It therefore accords with policies CS5 and CS13 of the CS and Policy MD7b of the SAMDev insofar as they relate to the types of development permitted in the countryside.

Conclusion

24. The development is acceptable having regard to the sites countryside location. However whilst I consider that suitable drainage for the development could be provided, I do not consider that this could be achieved without the imposition of a pre-commencement condition. The appellants are unwilling to agree to the imposition of such a condition.
25. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR