



Appeal Decisions

Hearing held on 28 May 2008

Site visit made on 28 May 2008

by **Brian Cook** BA (Hons) DipTP MRTPI

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

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Decision date:
19 June 2008

Appeal Ref: APP/J3910/C/07/2059670

Land at Nables Farm, Upper Seagry, Chippenham, Wiltshire SN15 5HB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Alan Cocksedge against an enforcement notice issued by North Wiltshire District Council.
- The Council's reference is AD3100.
- The notice was issued on 4 October 2007.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a building situated on the Land, shown on the attached photograph AM1.
- The requirements of the notice are:
 - (a) Dismantle and remove from the Land the building, which for identification purposes only, is shown on the attached photograph, AM1.
 - (b) Remove all materials and debris resulting from the requirements of paragraph 5a of this notice, from the Land.
- The period for compliance with the requirements is two months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Appeal Ref: APP/J3910/A/07/2057947

Nables Farm, Upper Seagry, Chippenham, Wiltshire SN15 5HB

- 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 Alan Cocksedge against the decision of North Wiltshire District Council.
- The application Ref 07/01489/S73A, dated 30 May 2007, was refused by notice dated 24 July 2007.
- The development proposed is retention of temporary building for use as shelter to the construction of a boat for a period of 3 years.

Decisions

Appeal Ref: APP/J3910/C/07/2059670

1. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal Ref: APP/J3910/A/07/2057947

2. I dismiss the appeal.

The S174 appeal on ground (a) and the S78 appeal

Preliminary matters and main issues

3. The application that is the subject of the S78 appeal refers to the development proposed as the 'retention of...'. This is not a term included within the meaning of development set out in S55 of the Act and I shall therefore deal with that appeal on the basis of the development proposed being 'a temporary building, as carried out, for use as shelter to the construction of a boat for a period of 3 years'.
4. On 2 April 2008 my colleague conducted a Hearing into two S78 appeals at the same site. Although the planning application site area of one of these (Ref: APP/J3910/A/07/2053961) includes the building that is the subject of the appeals before me, it was confirmed that permission for it was not sought under that planning application. However, I was told that the planted bund shown on the S78 appeal application Drawing No LDC.1183.002A as partially enclosing the building before me was considered to be part of the landscaping referred to in the description of the proposed development in the earlier appeal. As that appeal was dismissed on 16 April 2008 my understanding is that this bund does not have planning permission. I was also told during the site inspection that none of the buildings in the group near to the appeal structure had either an express planning permission or had been erected under the procedures set out in Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. However, it was confirmed that no enforcement notices other than that before me have been issued in respect of any of these matters or in respect of the two steel storage containers that are situated adjacent to the appeal building.
5. It was agreed at the Hearing that the issues raised were the same in each case and I have therefore dealt with the two appeals together in this document. From the evidence and what I saw during my site inspection I consider the main issues to be:
 - (a) The effect of the development carried out on the character and appearance of the countryside in the local area; and
 - (b) The effect of the development carried out on both users of the public rights of way and on the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance.

Reasons

The effect on the countryside

6. Nables Farm is set down in a valley that is characterised hereabouts by open fields, hedgerows and areas of more extensive woodland. The buildings are approached down a long track which falls from the public highway. It was agreed that the only available public viewpoint from which the appeal site can be seen is the public right of way that runs along higher ground some distance away to the north. It is poorly way-marked and where, according to Plan A, it departs from the line of the hedge, the route on the ground is not at all obvious.

7. I consider that the appearance of the building itself is not dissimilar in either design or materials from others typically found in the countryside. The roof, which is the element to which the eye is drawn from a distance, is light in colour and not unlike others at the farm in this respect. During the site inspection I saw that the view of the appeal building varied as I walked along the path. From some perspectives the building was obscured completely by a mature deciduous tree which, at the date of my visit, was in full leaf. In others, I consider that the structure reads against and appears to be part of the main building group. However, over much of the path's length it is not well screened by either planting or the bunds that I have referred to above and it appears to be somewhat detached from what, at a distance, I believe would be appreciated as a typical farm building ensemble. For this reason, I consider the effect to be that of an encroachment of built development into the otherwise open countryside beyond the farm building complex.
8. One of the key principles set out in paragraph 1 of *Planning Policy Statement 7, Sustainable Development in Rural Areas* (PPS7) is the protection of the countryside for the sake of, among other things, its intrinsic character and the diversity of its landscapes so that it may be enjoyed by all. In setting out this principle, PPS7 also states that new building development in the open countryside away from existing settlements or outside areas allocated for development in development plans should be strictly controlled. This principle is developed in the policies of the North Wiltshire Local Plan 2011 (LP), adopted in June 2006. For the reasons set out I consider that the building encroaches into the open countryside and therefore fails to respect the local character of the area and, in addition, does not relate well to the existing group of buildings. It therefore conflicts with LP policies C3, NE15 and BD5.

The effect on the users of the public rights of way and on the living conditions of the occupiers of neighbouring properties

9. This is not a matter raised by the Council in either its reasons for refusal of the planning application or its reasons for issuing the notice. At the Hearing, Mr Swainson confirmed that his concerns were reduced now that he understood the boat to be constructed from timber rather than fibre glass. The appellant explained in some detail the techniques used in the traditional construction of the vessel. My understanding is that the use of power tools is limited as is the use of substances such as glues and resins which could give rise to odours and, when sanded or otherwise worked, dust.
10. Taking into account the distances between the building and both the nearest permanently occupied dwellings and the public right of way, I do not consider that any harm caused by the boat building activity within the structure would be such as to warrant a refusal of planning permission on this ground alone. I therefore find no conflict with LP policy C3 (ix) in this regard.

Conclusions

11. For the reasons set out I have concluded that the development carried out conflicts with the development plan. I have also considered whether, in this case, there are any material considerations to indicate that the appeals should be determined other than in accordance with the plan. A number of conditions were canvassed at the Hearing and in my consideration of these I have had

regard to the advice in Circular 11/95, *The Use of Conditions in Planning Permissions*.

12. I agree with the Council that painting the external surfaces of the building would not materially alter the manner in which it is appreciated from the public domain. Any screen planting would take time to become effective and I am mindful that some of the screening that now exists does not have planning permission and may not therefore remain in place. While I accept that the imposition of a personal permission would give the Council further control over the use of the building, I am not persuaded that the strong compassionate or other personal grounds for doing so referred to in paragraph 93 of the Circular have been demonstrated in this case. Although there was some discussion about a condition that in some way specified that the planning permission should relate to a particular boat only, I also agree with the Council that this would not meet some of the tests set out in paragraph 14 of the Circular.
13. Permission is sought for a limited period only to enable construction of the boat to reach a particular point whereupon it would be taken elsewhere for final completion. In general, any effect on the character and appearance of the countryside would inevitably be reduced where a structure is intended to be in place for a short period only. In this case therefore, I must balance the argument for the temporary permission against the harm that I have identified having particular regard to the period during which that is likely to persist.
14. I am aware that the notice relates to the erection of the building only and not to the use of the land for boat construction and I note the appellant's suggestion that the work could continue in the open or under some other kind of temporary shelter. While I appreciate the desire of the appellant to conclude the project at this site, I saw during my site inspection that this would require a substantial reorganisation of the storage of machinery, tools and materials. It is not clear to me therefore that the suggested fallback position would be practical. Furthermore, no evidence was presented to suggest that the boat could not be moved elsewhere as it now stands, although I recognise that suitable alternative accommodation would need to be found.
15. Erection of the building began in August 2004 and would appear to have been completed not later than November of that year. Were I to allow the appeals subject to the condition suggested the conflict with the plan that I have identified would then have persisted for a period of not less than six to seven years which is not, in my opinion, a short period. Moreover, the appellant accepted that little recent progress had been made pending a resolution of the planning matters now before me. As I understand it, the appellant is carrying out this project mainly, if not wholly, on his own. There is no evidence of a detailed project plan showing a timeline for its completion and I agree with Mr Swainson that, in the light of the resources being set to the task, any such plan would in any event be vulnerable to changes in circumstances. Although it was suggested that a further period of 30 months would be required, no evidence was put forward to suggest that this was based on a robust appraisal of the work outstanding to complete the project to the stage required. I cannot therefore be confident that the project will be completed within the projected timescale. In my view, this concern over the length of time that the harm to the countryside that I have identified may persist outweighs the case for the temporary planning permission.

16. Therefore, having regard to the advice in paragraphs 109 and 110 of the Circular, I do not believe that a temporary planning permission would be appropriate in this case.

Conclusions on the ground (a) and S78 appeals

17. For the reasons given above I conclude that the S174 appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. For the same reasons I conclude that the S78 appeal should be dismissed.

Brian Cook

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr D R Pearce BSc FRICS	Land Development & Planning Consultants Limited, Lavender Cottage, Nettleton, Chippenham, Wiltshire SN14 7NS
Mr A Cocksedge	Appellant, 38 Sycamore Crescent, Fleet, Hants GU51 5NN

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Chambers BSC (Hons) MA MRTPI	Director, LPC (Trull) Limited, Trull, Tetbury, Gloucestershire GL8 8SQ
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INTERESTED PERSONS:

Mr J Swainson	Committee Member local CPRE, Dauntsey Wharf, Dauntsey Lock, Nr Chippenham, Wiltshire SN15 4HD
Mr S Jopling	Seagry Parish Council, Church Farm, Lower Seagry, Chippenham SN15 5EP

DOCUMENTS

- 1 Letter of notification of the Hearing and list of persons to whom it was sent submitted by the Council

PLANS

- A Plan showing public rights of way near to Nables Farm submitted by the Council