



# Appeal Decision

Site visit made on 2 July 2024

by **A J Sutton BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 17 July 2024**

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**Appeal Ref: APP/E3335/W/24/3338787**

**Land at Lynchcombe Lane, Perch Hill, Westbury-Sub-Mendip, Wells, Somerset BA5 1JA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Angelo and Mrs Sue Smith against Somerset Council.
  - The application Ref is 2023/0793/FUL.
  - The development proposed is described as 'The assembly of a utility barn for horse management purposes together with part agricultural use (storage of fodder and machinery).'
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## Decision

1. The appeal is dismissed, and planning permission is refused.

## Procedural Matter

2. Attention has been drawn to an emerging Neighbourhood Plan. However, this appears at an early stage of preparation, and there are likely to be matters that are unresolved such that this emerging plan attracts very limited weight.

## Background and Main Issue

3. The Council failed to give notice of its decision within the prescribed period. However, following the submission of this appeal, the Council identified reasons for refusing planning permission.
4. Reviewing the evidence, the main issue is the effect of the proposal on the scenic beauty of the Mendip Hills National Landscape.

## Reasons

5. The appeal site is part of a paddock which at the time of the site visit was principally laid to an exercise area for horses. The exercise area is a distinct feature with a sand surface, but bounded by a low post and rail, this area of the paddock largely retains an open quality. The site has a gated and gravelled access and bounds grazing paddocks. Structures in the immediate vicinity are generally limited to single storey, modestly scaled, timber stables and horse shelters which are set close to the paddock boundaries. As such, although it is close to a settlement, the site has a largely undeveloped quality and distinct rural character.
6. The Mendip Hills Area of Outstanding Natural Beauty (AONB), recently rebranded as National Landscape, comprises steep slopes and an undulating plateau punctuated by gorges, woodland and rocky outcrops. Some of these

landscape characteristics are evident at the appeal site, which is on a south facing slope of grassland, surrounded by grazing land, and screened from the adjacent lane by a hedgerow. Surrounding fields are also fringed by hedges and hedgerow trees, and the sloping land ascends steeply to an escarpment that provides panoramic views over Somerset, which includes distance views of Glastonbury Tor. These special qualities positively contribute to the landscape and scenic beauty of this sparsely developed rural area.

7. Section 245 of the Levelling-up and Regeneration Act 2023 replaces the duty to have regard to the purposes of conserving and enhancing the natural beauty of AONBs, with the duty, when exercising any functions in relation to land in an AONB [National Landscape], to seek to further the purposes of conserving and enhancing the natural beauty of the area. Consistent with this statutory duty, Policy DP4 of the Mendip District Local Plan 2006 - 2029 Part 1: Strategy and Policies (Local Plan) states, amongst other matters, within the nationally designated AONBs, the conservation and enhancement of the natural beauty, wildlife and cultural heritage will be the primary consideration in the determination of development proposals.
8. This proposal would result in the existing equestrian exercise area being covered by an open sided barn. The structure would be over 50m in length with a width exceeding 20m. As such, although the barn would be largely open at its elevations, there would still be a considerable expanse of metal sheeting, as a result of the buildings' extensive roof.
9. While the roof pitch would be shallow, the ridge height of the proposed building would exceed 5m. Even if a condition was attached to ensure the sides of the barn would not be enclosed, and the roof was painted in a subtle colour, this would still appear a substantially sized new building that would considerably erode the relatively open quality of this paddock.
10. It is highlighted that equine uses are a feature in the area. However, while keeping horses and ponies is common in this landscape, this is generally limited to grazing land and modestly sized stables and horse shelters, as opposed to large equine buildings. Also, the appellant asserts that large agricultural buildings are not uncommon in this rural area. However, while there are structures in this area, these generally have a low profile. Moreover, although the images submitted by the appellant shows buildings at Hollybrook Farm, this is located some distance from the appeal site and therefore those buildings do not influence the immediate character surrounding the appeal site.
11. The proposed large building in this area would not be close to an existing farmstead. Furthermore, the building would be significantly larger than any other structure which currently characterises this immediate setting. The incongruously large building would be at odds with the relatively undeveloped character of the area. In turn this addition would significantly diminish the existing special qualities which positively contribute to this part of the National Landscape.
12. The site is relatively well screened by mature vegetation. However, the incongruous structure would be visible from the immediate site access. Moreover, as illustrated in the appellant's evidence, the large building would be seen in glimpsed views, when descending the ridge, on the footpath in the wider area. Also, the structure would likely be visible from the upper floor windows of the few properties at the edge of the settlement. As such, the

adverse impacts would be localised and limited. However, for the reasons stated, significant visual harm would occur to the existing character of this part of the Mendip Hills, as a result of this proposal, and the special qualities of this landscape would not therefore be conserved.

13. The appellant is content to adhere to dark sky policies and additional landscaping with native species is proposed. These measures could be secured by condition. However, this mitigation along with a sensitive colour palette could not sufficiently minimise the adverse visual impact of an uncharacteristically large structure in this sensitive landscape.
14. Current residents in the area have not objected to the proposal. Be this as it may, I have to consider the development for its lifetime. Moreover, even with just glimpsed views, for the reasons outlined, the proposal would fail to conserve the natural beauty of this area.
15. It is contended that the height and scale of the structure is necessary for the storage of fodder, bales and grassland machinery and to assist with the management of the land. However, no compelling evidence has been advanced to justify why such a large structure is required to securely shelter these relatively modest sized items. Nor has it been demonstrated that this visually harmful building would be the only means of protecting the surface of the exercise area or that it is necessary for the management of grazing land at this relatively small holding.
16. The appellant disputes the Council's comments regarding the lawfulness of the manege, and this is a matter between the main parties. This aside, even if I agree that the large structure could be dismantled quickly, this proposal is not presented as a temporary development. These matters have not altered my findings for the reasons stated.
17. In light of the above, I find that the proposal would fail to conserve the scenic beauty of the Mendip Hills National Landscape. In this respect, the proposal would be contrary to Policies DP1, DP4 and DP7 of the Local Plan. These Policies collectively, amongst other matters, require that the design and appearance of the proposal is responsive to its context and where visible within the wider landscape makes a positive contribution that reinforces the character of the AONB.
18. The proposal in this respect would not accord with the Guidelines for Horse-Related Development for the Mendip Hills AONB Supplementary Planning Guidance (SPG), which seeks, amongst other matters, design to be sympathetic to the landscape. The proposal would also be inconsistent with the provisions of the National Planning Policy Framework – December 2023 (the Framework) which requires great weight should be given to conserving the landscape and scenic beauty of National Landscapes.

### **Other Matters**

19. It is stated that support was expressed at the pre-application stage. This may be so, but the Council is not bounded by comments made during that stage.
20. Ecological studies indicate that the proposal would not harm existing biodiversity on the site. However, this is an expectation of any development such that this matter does not weigh in favour of the proposal. Recommendations have been made to improve the ecology on-site, and this

includes the provision of owl and bat roosting boxes. However, I find no reason why this enhancement could not be provided without this visually harmful development. Such a small net environmental gain is countered by this factor. Moreover, in significantly harming the character of this landscape, the proposal would fail to safeguard the environment, and would not be an effective use of land in this regard.

21. Core Policy 1 of the Local Plan states that in the open countryside will be strictly controlled but may exceptionally be permitted in line with the provisions set out in Core Policy 4. With reference to this matter, attention is drawn to limb 4b of Core Policy 4 which seeks to enable the establishment, expansion and diversification of business.
22. However, the submitted evidence states that the existing use and the proposed facility are for private recreational purposes. This development does not appear to be seeking to establish or expand a business and therefore this part of the Policy has not been determinative. Moreover, the other limbs of Core Policy 4 relate to dwellings, community and other infrastructure and safeguarding community facilities and are therefore not relevant to this proposal which is largely presented as being for private use.
23. The appellants highlight that they keep American Quarter horses and subscribes to the National Reining Horse Association (NRHA). Related to this, there appears to be sufficient space at the appeal property to exercise the horses in line with the exercise pattern layout advised by the NRHA and to ensure the animals' well-being. Moreover, the existing space at the appeal site for 'home exercise of horses' accords with advice of the SPG in respect of seeking to minimise conflicts with other road users.
24. It is also asserted that the equestrian use of this land is the correct location and suitable for the countryside. Be this as it may, it has not been demonstrated that a large structure, intended for private use, is necessary for the safe keeping of these horses in this visually sensitive location. These matters have not altered my findings for these reasons.
25. It is suggested that this proposal would deliver a carbon saving through reduced lorry movements. However, even if I accepted this would be so, this would be a small benefit given the scale of the development. This small benefit would not outweigh the great weight I attach to the failure to conserve the landscape and scenic beauty in the National Landscape in this case.
26. Attention has been drawn to policies that are not in dispute. However, I have identified harm to the landscape and conflict with the development plan when read as a whole.

## **Conclusion**

27. For the reasons outlined above and having regard to the development plan and other material considerations, including the Framework, planning permission is refused, and the appeal should be dismissed.

*A J Sutton*

INSPECTOR