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# Appeal Decision

Hearing held on 9 September 2008

Site visit made on 9 September 2008

by **Simon Rawle BA (Hons) Dip TP MRTPI**  
Solicitor

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

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**Decision date:**  
**6 October 2008**

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**Appeal Ref: APP/M1710/A/08/2067316**

**Land West of Greenway Lane, Buriton, GU31 5SQ**

- 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 Dr Carolyne Haynes against the decision of East Hampshire District Council.
  - The application Ref 49953/001/FUL, dated 15 May 2007, was refused by notice dated 5 October 2007.
  - The development proposed is two agricultural barns for use as animal shelters.
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## Procedural Matters

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision. In addition, as advised at the Hearing, the right of appeal rests only with the original applicant and it is on that basis that I have determined the appeal. I have used the description of development included on the decision notice and the appeal form rather than that used on the application form as it provides a more succinct summary of the proposed development.

## Decision

2. I allow the appeal, and grant planning permission for two agricultural barns for use as animal shelters at Land West of Greenway Lane, Buriton, GU31 5SQ in accordance with the terms of the application, Ref 49953/001/FUL, dated 15 May 2007, and the plans submitted with it, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The barns hereby permitted shall be used only for agricultural purposes and if at any time either barn ceases to be used or required for such purpose it shall be removed and the site reinstated to permanent pasture.
    - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted and details of the materials to be used for the hard surfaced areas have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
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- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment for each barn shall be completed before the use of that barn begins. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details have been submitted to and approved in writing by the local planning authority which indicate how the existing vehicular access at the junction of Sesden Lane and Greenway Lane shall be permanently stopped up and closed to vehicles but shall remain open for pedestrians. Development shall be carried out in accordance with the approved details and shall remain in that form thereafter.
- 6) No building shall be used for the permitted use until space has been laid out within each site for cars to be parked and for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear in accordance with details submitted to and approved in writing by the local planning authority.
- 7) Any gates provided shall be set back a distance of 6 metres from the edge of the carriageway of the adjoining highway and the first 6 metres of the new access shown on plan number PL04 shall be surfaced with a non-migratory material and shall be retained thereafter.
- 8) Development shall not begin until drainage works have been carried out in accordance with a scheme to be submitted to and approved in writing by the local planning authority. Details of the scheme shall include provision for surface water drainage from the barns and any areas of hardstanding, including the new access road as well as the drainage works necessary to ensure that any contaminated water or other pollutants generated by the permitted use are properly dealt with and do not contaminate either the site itself or surrounding land. The use hereby permitted shall not begin until the measures approved in the scheme have been implemented.
- 9) No external lighting shall be installed on the site or affixed to any buildings on the site except in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 10) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority to secure that;
  - (a) The property known as Tithe House is tied to the parcel of agricultural land that will accommodate Barn A as shown in part edged red on Drawing No. PL05; and
  - (b) the two parcels of agricultural land (but excluding any existing buildings), as shown in part on Drawing Nos. PL04 and PL05 and known as Tithe Farm and The Small Holding at Tithe House will be farmed as a single farm unit; and
  - (c) in the event that the farm unit is subdivided or split into smaller parcels of land, then Barn A and Barn B shall be demolished and

all associated materials shall be removed and the respective sites shall be reinstated to permanent pasture within 3 months of the subdivision.

### **Main issues**

3. I consider that the main issue in this case is the effect of the proposal on the character and appearance of the area with particular regard to the impact on the East Hampshire Area of Outstanding Natural Beauty (AONB).

### **Reasons**

4. The appellant intends to increase the size of their sheep flock and to introduce suckler cows. In order to house the animals over the winter and to provide other related facilities the proposal would comprise two agricultural barns. The first, Barn A would be located near an existing group of agricultural buildings next to Tithe House, whereas Barn B would be located in a field adjacent to a railway line fence on land west of Greenway Lane.
5. The development plan for the area includes the East Hampshire District Local Plan Second Review adopted in 2006. I have also had regard to the national planning advice contained within Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS 7). Local Plan Policy GS3 highlights that the countryside should be protected for its intrinsic character and beauty and that planning permission will not be granted unless it meets certain criteria including that it is necessary for farming and the proposed development would not harm the overall character, quality and appearance of the countryside and the type and volume of traffic would not harm the countryside. Moreover, the area falls within an AONB where Local Plan Policy C1 sets out that development which would harm such an area's special character, quality, tranquillity and appearance of its landscape will not be permitted unless it is essential for its economic or social well being.
6. I turn first to consider whether there is an agricultural need for the two barns. The Council have commissioned an agricultural appraisal. This concluded that when the proposed increase in livestock is taken into account a reasonable argument can be put forward as to why the proposed buildings are required. The Council confirmed that this remained their position and I agree. As a result, I am satisfied that there is an agricultural need for two barns. However, this finding is based on the assumption that all of the land is farmed as one farming unit and includes a tie to Tithe House.
7. There was a significant amount of discussion about the need for a s106 agreement/undertaking or whether this matter could be dealt with by condition. Moreover, the appellant was strongly opposed to a tie between the newly acquired 31.6 hectares of land and Tithe House. I was advised by the main parties that there was an existing tie between the smaller area of land (4.9 hectares) and Tithe House. The parties drafted a condition which they considered would ensure that the necessary safeguards were in place to ensure that the land would be farmed as one farming unit. Subject to ensuring that the existing tie remains between the smaller parcel and Tithe House I agree that an appropriately worded condition would ensure that the land is farmed as one farming unit.

8. I turn now to consider their impact on the character and appearance of the area. It was common ground between the main parties that as proposed Barn A would be sited within an existing complex of agricultural buildings close to Tithe House it would be acceptable in landscape terms and would not impact upon the character and appearance of the area. I agree.
9. Barn B would be located away from the other farm buildings. However, I am satisfied that given the physical barrier created by the railway it is appropriate to site a second barn in this location rather than two barns near Tithe House. I have taken account of the particularly attractive character and appearance of the countryside in this location reflected by its AONB status and supported by the fact that it lies within the proposed boundary of the South Downs National Park. I took the opportunity to view the appeal site from the surrounding public footpaths which gave me an elevated view down towards the appeal site. I have also taken account of the view that there were more appropriate places to site the barn. Nevertheless, I consider that the proposed location would be acceptable. Although the land in which the appeal site is located is undoubtedly special, an appropriately sited and designed agricultural barn is an appropriate use for such an area.
10. In fact I agree with the Officer's view expressed in the Committee Report. The barn would be located alongside the railway fence in a corner of the field. Due to this proposed location and the existing vegetation combined with the proposed planting I consider that in accordance with the objectives of Local Plan Policy GS3, the proposed development would not harm the overall character, quality and appearance of the countryside. In addition, in accordance with Local Plan Policy C1, the proposal would not harm the special character, quality, tranquillity or appearance of the AONB. Furthermore, the proposal would not harm the nature conservation interests of the area.
11. I therefore conclude that the proposal would not harm the character and appearance of the area or the special character, quality, tranquillity or appearance of the East Hampshire Area of Outstanding Natural Beauty (AONB). Accordingly the proposal would accord with the objectives of the relevant development plan policies and with national planning advice.
12. I have taken account of all other matters raised, including concerns about highway safety at the Barn B site. However, there is an existing vehicular access close to a bridge which crosses the railway. Visibility from this access is substandard. The proposal would involve the closing up of this access and the formation of a new access further along Greenway Lane away from the bridge. Notwithstanding that this may displace an area to the side of the road where cars currently park, this would create a much safer vehicular access to serve this part of the farm and would be able to accommodate the limited traffic that would be generated by the proposal. As a result, the proposed development would not have an adverse impact on highway safety and in my opinion would improve the existing situation. I note that a request has been made to modify the definitive map to include a path which would cross the Barn B site. Whilst if granted, the appellant would have to take this into account, this does not have a significant bearing on the determination of the appeal.
13. I have also taken account of concerns expressed about run off, flooding and public health matters associated with the proposal at the Barn B site. These

are legitimate concerns and I agree that the existing drainage arrangements are far from ideal. The proposal at the Barn B site involves the formation of a new access road, the erection of a barn and the introduction of hardstanding areas. The effect of such development is to reduce the permeability of part of the appeal site. As a result, the volume of water that runs off the site would increase. I note that the appellant has proposed a balancing pond. However, in accordance with the advice contained within Planning Policy Statement 25 Development and Flood Risk (PPS 25), it is essential that the proposal involves adequate surface water drainage arrangement to ensure that there is not an increase in the risk to the flooding of adjoining land. Likewise, there is a proposed muck heap. It is essential that contamination is not allowed to have an adverse impact on the environment or on the amenity of surrounding land.

14. The main parties advised me at the Hearing that this matter could be dealt with by the imposition of appropriately worded conditions and I agree. Such conditions are necessary to ensure that the proposal would not exacerbate the existing surface water/flooding situation and that contamination would be adequately dealt with.
15. I have considered the conditions suggested by the parties having regard to the advice in Circular 11/95 – The Use of Conditions in Planning Permissions. I note that the Farm Plan which accompanied the application included details of activities that would not fall within the definition of agricultural use. Therefore it is necessary to impose a condition to ensure that the barns are only used for agriculture. To ensure that the character and appearance of the area is not harmed, it is important that the proposed development is constructed using appropriate materials, (including hard surfaced areas) and I shall impose conditions in this regard. Similarly, it is necessary to impose a condition to ensure that appropriate boundary treatment is provided. In the interests of highway safety, I shall impose conditions in relation to the access arrangements and parking. For similar reasons I shall impose a condition to control the erection of gates across the access way and to ensure that non migratory material is used for that part of the access closest to the highway.
16. For the reasons set out above, I shall impose conditions to ensure that the proposed drainage arrangements are satisfactory and that the proposal would not result in any unacceptable contamination of the area. Moreover, to protect the appearance of the area it is necessary to ensure that an appropriate lighting scheme is provided. Finally, for the reasons set out above it is important that the entire landholding is farmed as one farming unit and that although I have been advised that Tithe House is already tied to the smaller parcel of land it is necessary to ensure that this tie remains in place and I shall include provision within the condition to secure that situation.
17. Where necessary, in the interests of precision and enforceability, I have adapted the conditions suggested by the parties having regard to the advice in Circular 11/95.

*S.M Rawle*

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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Mr I Johnston                                         Tithe House, Buriton, GU31 5SQ

FOR THE LOCAL PLANNING AUTHORITY:

Mrs J Mansi BSc (Hons) BTP                     East Hampshire District Council  
PDUP MRTPI  
Cllr Gray     East Hampshire District Council

INTERESTED PERSONS:

M B Oates     Buriton Parish Council, c/o Old Ditcham Farm,  
Ditcham, Petersfield, GU31 5RQ  
Rhys Govier                                         Rill Cottage, 137 Haslemere Road, Liphook,  
Hampshire, GU30 7BX  
Mr A Askew                                         Whistles, South Lane, Buriton, GU31 5RU  
P A Bushell                                         Toads Alley, South Lane, Buriton, GU31 5RU  
Mr and Mrs Francis                             Greenways, Greenway Lane, Buriton, GU31 5SX  
Sara Hughes                                        11 Greenway Lane, Buriton, GU31 5SX  
Tony Phillips                                       Hill View, Greenway Lane, Buriton, GU31 5SX  
P E Mitford                                         41 High Street, Buriton, GU31 5RX  
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DOCUMENTS

- 1 Extract of Plan Showing Proposed South Downs National Park  
Recommended Boundary Modification – June 2007
- 2 Additional Condition