

Appeal Decisions

Site visit made on 6 September 2016

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 27 October 2016

Appeal A

Ref: APP/T0355/W/16/3151615

Glebelands Farm, Drift Road, Maidenhead SL6 3ST

- 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 outline planning permission.
 - The appeal is made by Mrs J Bennett against the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 15/02344/OUT, is dated 8 July 2016.
 - The development proposed is an outline application for demolition of existing agricultural and horticultural buildings and construction of a purpose designed quadrangle of stables, tack rooms, feed stores, hay barn and grooms day room, along with a variation of condition on the agriculturally occupancy dwelling to allow for a polo manager all of which relates to a private members only polo establishment.
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Appeal B

Ref: APP/T0355/W/16/3151610

Glebelands Farm, Drift Road, Maidenhead SL6 3ST

- 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 Mrs J Bennett against the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 15/02303/FULL, is dated 8 July 2015.
 - The development proposed is a full application for a full sized polo pitch and associated stick and ball pitch.
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Appeal C

Ref: APP/T0355/W/16/3151815

Glebelands Farm, Drift Road, Maidenhead SL6 3ST

- 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 under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs J Bennett against the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/00960/VAR is dated 18 March 2016.
 - The application sought planning permission for construction of a detached 2 bedroom agricultural workers dwelling without complying with a condition attached to planning permission Ref 09/02083, dated 24 December 2009.
 - The condition in dispute is No 3 which states that: *The dwelling shall be occupied only by persons solely or mainly employed, or last employed, on the application holding in*
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agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or in forestry, or a widow or widower of such a person, and by any resident dependants.

- The reason given for the condition is: *The site of the dwelling lies within the designated Green Belt and permission is only granted to meet proven agricultural needs. Relevant Policy Local Plan GB1.*
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Decisions

Appeal A

1. The appeal is dismissed and planning permission for outline application for demolition of existing agricultural and horticultural buildings and construction of a purpose designed quadrangle of stables, tack rooms, feed stores, hay barn and grooms day room all of which relates to a private members only polo establishment is refused.

Appeal B

2. The appeal is dismissed and planning permission for full application for a full sized polo pitch and associated stick and ball pitch is refused.

Appeal C

3. The appeal is allowed and planning permission is granted for construction of a detached 2 bedroom agricultural workers dwelling at Glebelands Farm, Drift Road, Maidenhead SL6 3ST in accordance with the application Ref 16/00960/VAR dated 18 March 2016, without compliance with condition numbers 1 and 2 previously imposed on planning permission Ref 09/02083 dated 24 December 2009 and subject to the following new conditions:
 - 1) The dwelling shall be occupied only by persons solely or mainly employed, or last employed, on the application holding in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or in forestry or for an equestrian manager and/or grooms, or a widow or widower or surviving civil partner of such a person, and by any resident dependents.
 - 2) Within one month of the date of this permission the existing caravan shown to be removed on the approved plans shall be removed from the site.
 - 3) Notwithstanding the provisions of Classes A, B and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling, its roof or the provision of a building in its curtilage incidental to the enjoyment of the dwellinghouse shall be erected on the appeal site.

Application for costs

4. An application for costs in respect of Appeals A and B was made by Mrs J Bennett against the Council of the Royal Borough of Windsor and Maidenhead. This application is the subject of a separate Decision.

Procedural matters

5. These three appeals relate to a single landholding. There were various spellings of the site address in the documentation, and I have used above that which appeared on signs on site and was agreed with the appellant's agent.
6. Appeal A relates to an outline application with only landscaping for consideration at this stage and I will consider the proposal on that basis. However, illustrative plans and elevations have been submitted showing the proposed buildings which I will also utilise on that basis. The appeal proposes the demolition of various buildings and other structures and the construction of stables and ancillary facilities. The description of the proposal on the application form also refers to "a variation of condition on the agriculturally occupancy dwelling to allow for a polo manager". However, the representations by the appellant and Council do not refer to this aspect and as it is covered in Appeal C this element would be duplicated if forming part of Appeal A. I am therefore going to consider the question of the condition under Appeal C alone as no party would be disadvantaged were I to do so. I have not included this element within the formal decision description of Appeal A above.
7. Appeal B proposes the change of use of two areas to a polo pitch and stick and ball pitch, along with an area shown for parking and turning of vehicles. This parking area was shown on an amended plan submitted to and accepted by the Council and I will include this within my consideration.
8. The Council indicates in its statement that had it been in a position to do so it would have refused all three applications. In each case this was because it considered that the proposals represented inappropriate development in the Green Belt and that very special circumstances did not exist to overcome the harm to the Green Belt. I will explore these issues in more detail below.
9. The appellant, correctly, points out that each proposal needs to be considered on its own individual merits. However, it is clear that there are links between the various proposals. As the appellant states in her final comments on the proposal for the variation of the condition, the "ability for the existing dwelling to house a Polo Manager/grooms in conjunction with the operation of the proposed stables are linked with one another"¹. But even here this does not necessarily follow as is explored below.
10. I also note that the condition the subject of Appeal C is not in the conventional form in that it is only allows occupation by "persons solely or mainly employed, or last employed, on the application holding" [my underlining] rather than in the locality.
11. Each appeal site is discrete and only refers to the area identified within its own 'red line'. When I use the term "landholding" I am referring to the area shown as owned by the appellant and identified with a 'blue line'.

The appeal site

12. Glebelands Farm is located on the north side of Drift Road in an area of countryside well separated from any settlement. Apart from the dwelling the subject to Appeal C, there are a mobile home, which appeared to be used

¹ Paragraph 4.2

residentially, various buildings, being barns, glass houses, undercover growing areas, egg packing and grading rooms, and ancillary storage and shipping containers. To the north of the barn I saw an area which appeared to be used for scaffolding storage, with an associated flat-bed lorry, and there were also some areas with small amounts of building material stored. These buildings and other structures are concentrated in the centre of the width of the site towards the southern end, but still set some way back from Drift Road. However, three barn buildings, two with feed hoppers (one on its side), are located a short distance to the north. The area around the existing buildings (with the exception of the three barns slightly to the north) and dwelling, as well as the area shown for vehicle parking and turning in Appeal B, are covered in extensive areas of hardstanding, upon which were located a number of horse lorries and transporters.

13. The remaining areas of the site are open. The areas to the south of the buildings appeared to be grazed by horses. To the north of the building area are three fields. The field to the west appeared to be grazed by horses in paddocks, the fields to the east, and beyond that, the north, appeared to be pasture and hay respectively. A public footpath runs between the east and west fields and runs up the western side of the northern field. An electricity cable on poles runs across the southwestern corner of the landholding.
14. The land rises gently and steadily from south to north, although at the northern end of the landholding the land levels off and slopes down gently to Sheepcote Lane. There are various hedgerows and fences surrounding the landholding and between the east and west fields.

APPEAL A

15. This appeal relates to the area where the majority of the buildings are located. The outline application only relates to the area of the proposed building and proposes the demolition of all the existing buildings in this area. It is also clear from the documentation that, with the exception of the dwelling, all the other buildings on the landholding together with the mobile home are also to be removed. Thus the three barns and hoppers a short way to the north of the application site would be demolished.

Main Issues

16. As the appeal site is within the Green Belt the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect on the character and appearance of the area;
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

17. The Royal Borough of Windsor and Maidenhead Local Plan Including Alterations (RWMLP) was adopted in 2003. Within the Green Belt, under the terms of Policy GB1, permission will be granted for the construction of buildings for essential facilities for outdoor sports and recreation which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy GB2 of the RWMLP additionally sets out a number of criteria to meet for development which is acceptable within the Green Belt.
18. The Framework, in paragraph 89, makes clear that the construction of new buildings is inappropriate in the Green Belt although it sets out a number of exceptions. Included within this, exception 2, is the provision of appropriate facilities for outdoor sports, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
19. Although an outline application for operational development the proposal includes the making of a material change of use of the application site from agriculture to the keeping of polo ponies. The appellant argues that exception 2 includes permitting a material change of use so that the proposed buildings would fall within that exception. In support of this, she argues, exception 4 (replacement of buildings in the same use) explicitly indicates that a change of use is not included, and exceptions 5 and 6 (limited infilling, limited affordable housing and development on brownfield land) require a material change of use and exception 1 (agricultural and forestry buildings) may require a material change of use.
20. It seems to me this is not the situation. The appellant and Council both refer to the case of *Fordent Holdings Limited v SSCLG & Cheshire West and Chester Council*². This case made clear that in setting out Green Belt policy the Framework had not just reiterated previous Government Policy set out in PPG2³, and that there had been a number of alterations.
21. As the Courts have made clear policy statements should be considered objectively in accordance with the language used, read as always in its proper context and that the Framework means what it says. It is also a self-contained statement of national planning policy. I am therefore satisfied that the making of a material change of use is not implicitly included within exception 2. The exceptions in paragraph 89 deal with the erection of buildings. Exception 2 allows for 'facilities' i.e. buildings, not for any underlying use and these facilities need to be 'appropriate' to the defined use of the land. To allow for exception 2 to apply, the land has to be already in lawful use for outdoor sports or recreation or as a cemetery, as the case may be, which is not the situation here.
22. Exceptions 5 and 6 may involve a material change of use but this is required to allow other aspects of Government policy to be permitted in the Green Belt. A

² [2013] EWHC 2844 (Admin)

³ Green Belts

change of use to agriculture is not “development” in itself⁴ and thus a reference to a change of use is not relevant.

23. On that basis the proposed construction of buildings comprising stables, tack rooms, feed stores, hay barn and grooms day room are not covered within the exceptions set out in paragraph 89 of the Framework, nor any of the other exceptions set out in paragraph 90, and thus the proposal represents inappropriate development as described in the Framework. Given that the Framework is a much more recent expression of national policy than the RWMLP I shall proceed to apply the tests in the Framework when considering the question of inappropriateness as I do not consider the RWMLP to be consistent with the Framework based as it was on PPG2. In addition, it would not be appropriate to attribute weight to the supporting text to policies in the RWMLP as it was the policy alone that was saved under the Secretary of State’s Direction.
24. That being the situation, the other aspects of the appellant’s case should be assessed as other considerations which may or may not amount to very special circumstances as I will explore below.
25. Consequently the proposal represents inappropriate development and in line with the advice in paragraphs 87 and 88 of the Framework it would be, by definition, harmful to the Green Belt and substantial weight should be given to this harm.

Openness

26. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Indeed, one of the essential characteristics of Green Belts is their openness.
27. Currently the buildings and other structures on the landholding affect openness. The size of these buildings and structures provided by the appellant has not been contested by the Council. The proposal, including the demolition of the barns outside the appeal site, have a volume of approximately 5,880m³ and the replacements shown on the illustrative plan would have a volume of approximately 3,295m³. Similarly, the floor area covered would reduce from approximately 2,109m² to approximately 1,218m². The main barn and hoppers are currently the tallest buildings on site at approximately 6m and the maximum height of the proposed building is shown on the illustrative drawings as being 3.365m, although with a weathercock above.
28. It would be possible by condition on any planning permission to ensure that any application for reserved matters followed the parameters set out on the illustrative drawings.
29. However, because the ‘red line’ of the application site has been tightly drawn around the proposed buildings incidental activity would inevitably extend around the buildings, including the parking of cars used by grooms gaining access to their employment and those visiting the site to play polo (either on the pitches the subject of Appeal B or on open areas utilising permitted development rights), or lorries delivering and collecting polo ponies. This lack of detail does give uncertainty as to what the effects would be in reality and

⁴ Section 55(2)(e) Town and Country Planning Act, 1990 (as amended)

thus tempers the weight that I can give to the benefits to openness by the removal of the existing buildings.

30. Notwithstanding this, due to the difference between the volume/area of the existing and proposed buildings, overall I conclude the proposals as shown on the illustrative drawings would enhance openness in the Green Belt. Insofar as openness has a visual component, I will assess the effects of this, and thus the degree of benefit which I will consider in my conclusions, in the next section of this decision.

Character and appearance

31. The appeal site currently has a slightly unkempt appearance with some of the buildings in a state of disrepair. However, the main area of buildings is obscured from view from Drift Road by vegetation close to the site of the buildings limiting their effect in views from the road. Notwithstanding this, the buildings are easily seen by anyone walking along the public right of way and are detrimental the character and appearance of the area.
32. The loss of the existing buildings and other structures and their replacement by suitably designed new, purpose built stables, tack rooms, etc., would enhance the character and appearance of this part of the countryside. As explained above activity would inevitably extend around the buildings, but this is no different from what I saw at the site visit with the HGVs parked in the vicinity of the buildings and as horses were groomed. Insofar as the three outlier barns and hoppers would be removed there would be a consolidation of development thereby enhancing the wider environment.
33. As set out above, Policy GB2 sets out various criteria which development acceptable in the Green Belt needs to meet. Included within these is that development should not harm the character and appearance of the countryside. This part of the policy is consistent with paragraph 17 of the Framework which seeks recognition of the intrinsic character and beauty of the countryside and, thus in line with paragraph 215 of the Framework, can be given due weight.
34. I am therefore satisfied that the proposal would enhance the character and appearance of this area. The proposal would therefore comply with this part of Policy GB2 and paragraph 17 of the Framework as set out above, but because of the uncertainty as to the extent by which activity would take place around the appeal site as described above I can only attribute moderate weight to this benefit.

Other considerations

35. The appellant has put forward a number of other considerations in favour of the development. Firstly is that paragraphs 73 and 81 of the Framework indicate that opportunities for sport and recreation can make an important contribution to the health and well-being of communities, and that opportunities for outdoor sport and recreation, enhancing visual amenity and improving damaged land all should be taken into account in the Green Belt. The polo facilities to be provided would be a private facility rather than a public facility and therefore I can only give these benefits moderate weight.

36. Secondly, the appellant refers to Class R of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Permitted Development Order) which permits changes of use of agricultural buildings to flexible uses including, under the appellant's case, Class D2 to the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (the Use Classes Order). Class D2 includes indoor or outdoor sports or recreations, not involving motorised vehicles or firearms.
37. This permitted development right is not, of course, unqualified. Assuming the building meets the use criteria, the Permitted Development Order only permits a change of use of up to 150m² of buildings without prior approval and only up to 500m² with prior approval. This would not, therefore, provide the floorspace that the proposal seeks and is unlikely to be as commodious to the proposed use as it would have to be accommodated within the existing building rather than being of purpose built design. While the change of use also allows the change of use of additional land outside the building to create a curtilage, together (building and curtilage) this would still have a smaller area than the existing buildings.
38. The appellant also refers to of the Government's intention to permit changes of use of this type. She makes the case that this permitted development change of use would appear to be inconsistent with exception 2 of paragraph 89 of only allowing the erection of buildings when the outdoor sports or recreation, or cemetery, as the case may be, lawfully exists. I have considered paragraph 89 above.
39. I consider the possibility of the use taking place under permitted development as having a greater than a theoretical possibility. However, this fall-back position would have fewer and lesser effects than the proposal. I therefore give this only moderate weight in favour of the development.
40. In the Design and Access Statement alternative changes of use permitted for agricultural buildings under the Permitted Development Order are also put forward. However, both a change of use to dwelling or a state-funded school or registered nursery would have different effects. I consider there would no more than a theoretical possibility of them happening and I therefore give these alternatives very little weight.
41. Thirdly, reference is made to RWMLP Policies GB6 and GB7. Policy GB6 allows for new or enlarged riding schools and other commercial equestrian establishments subject to a number of criteria. Criterion 1 refers to their being sufficient residential accommodation on the site to meet the needs of the proposal, and if Appeal C were to be successful, then this would be satisfied. Criterion 2 relates to a harmful proliferation of commercial equestrian establishments within an area. While at the site visit I saw horses in a number of nearby fields there was nothing to indicate to me that this proposal would be any part of a harmful proliferation. Criterion 3 deals with highway matters where there is no objection to this proposal from either the Council or Highway Authority. Criterion 4 requires there to be sufficient bridleways or other riding land available for exercising horses, which would be satisfied on the landholding whether or not Appeal B is successful. Criterion 5 requires compliance with Policy GB2 which I have considered above.

42. I am therefore satisfied that the proposal complies with Policy GB6 and there would be an enhancement to the character and appearance of the area. However, this would be an adjunct of the benefits set out above and no additional weight in favour should be applied.
43. Policy GB7 allows for the erection of stables for keeping horses for private recreational use subject to various criteria. For the reasons I have explored above, within the Green Belt, it would appear that this policy is inconsistent with that relating to the erection of buildings set out in the Framework and should be given limited weight. However, insofar as it is material, this proposal would be contrary to Policy GB7 in that it only permits up to a maximum of four stable units on any one site, which associated tack room and feed store, and this non-compliance therefore weighs against the development.
44. Fourthly, the appellant has indicated that the proposal will re-use an otherwise unviable farm for an exceptional outdoor sport and recreational facility. However, while the statement sets out a number of agriculturally based enterprises that have taken place on the site I have little information as to why there were changes from one type of enterprise to another or why they ceased, or why could not be re-commenced. Based on this lack of information I am unable to give this aspect any weight in the balance.
45. Fifthly, it is indicated that the proposal would reduce traffic movements to and from the property to the benefit of the locality. The appellant's traffic figures are not based on survey information of the site, rather using generic figures. The response of the Highway Authority on consultation was that while proposal would lead to a reduction of vehicular trips from the site it would attract larger vehicles to the site - horse trailers and carriers. Overall I am satisfied that there would be a reduction in the amount of traffic, but given the uncertainties as to the likelihood of an agricultural use taking place to the level indicated I can only give this asserted benefit limited weight.
46. Sixthly, the appellant indicates that if operational there would be greater employment than the existing site and there would be the utilisation of the services of many other rural businesses including tack suppliers, grooms, veterinary surgeons, equine physiotherapists, equine dentists, hay, feed and straw/bedding suppliers, feed merchants, local builders, farm machinery suppliers and repairs, rug cleaning and repairs, and building and timber merchants. The Framework in paragraph 28 emphasizes that policies should support economic growth in rural areas. While it is indicated that there would be four live-in grooms/manager, I have little information as to the extent of these suppliers beyond that which can be derived from the traffic figures. Having said I am satisfied that there would be benefits in the local economy and give this moderate weight.
47. Finally, the appellant refers to the initial investment to deliver the proposal and the economic advantage that this would deliver. Again this is appreciated and can be given moderate weight.

Overall conclusions in respect of Appeal A

48. As inappropriate development in the Green Belt paragraph 88 of the Framework indicates that substantial weight should be set against the proposal

and this harm is added to by the non-compliance with Policy GB7 as regards the number of stables on a site.

49. Counterbalancing this are the moderate weight that I have given to the benefit to openness and enhancement to the character and appearance of the area. I also give moderate weight to the benefit from the provision of a facility for sport and recreation, and moderate weight to the fall-back position which may be obtained by utilising permitted development rights. There would be compliance with Policy GB6, but for the reasons set out above this does not attract any additional weight. I have given limited weight to the benefits of reducing traffic in the vicinity and give moderate weight to both the benefits to the rural economy in running of the proposed establishment and the construction of the development in the first place.
50. The Framework states that inappropriate development should not be approved except in very special circumstances, and the Government has repeatedly emphasized the importance of protecting the Green Belt. In balancing all these factors together I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances needed to justify the development do not exist.
51. For the reasons given above I conclude that the appeal should be dismissed.

APPEAL B

52. This appeal relates to two areas within the east and west fields as well as the parking area on the southern part of the landholding. The proposal in the east field would be used for a full size polo pitch and the west for a three-quarter sized practice area. It is made clear that the proposal is only for the use of the land and that no physical works or any ancillary matters other than the temporary siting of goal posts during play are proposed. It is therefore clear that this proposes the making of a material change in the use of the land.

Main Issues

53. As the appeal site is within the Green Belt the main issues are:
- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect on the character and appearance of the area;
 - would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

54. Policy GB1 of the RWMLP, in addition to the provisions referred to above, states that permission will be granted for the making of material changes of use of

land which maintain openness and do not conflict with the purposes of including land in the Green Belt.

55. In addition to the construction of certain types of new buildings, the Framework indicates that some other forms of development are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt (paragraph 90). Changes of use, with the exception of the re-use of certain buildings, are not explicitly included within this list.
56. For the same reasons as I concluded in relation to Appeal A, Policy GB1 is not consistent with the Framework, and as that the Framework is a much more recent expression of national policy than the RWMLP I shall proceed to apply the tests in the Framework when considering the question of inappropriateness.
57. It would appear that the appellant accepts that this proposal represents inappropriate development in the Green Belt from her comments that a material change of use of land is not specifically included within the list of exceptions in paragraphs 89 to 91 "may mean that such a change of use is inappropriate development"⁵.
58. That being the case, as with Appeal A, the other aspects of the appellant's case should be considered as other considerations which may or may not amount to very special circumstances as I will explore below.
59. Consequently the proposal represents inappropriate development and in line with the advice in paragraphs 87 and 88 the Framework it would be, by definition, harmful to the Green Belt and substantial weight should be given to this harm.

Openness

60. It is made clear that the use as a private members only polo club would mean the pitches would be used on a private basis only. It would not be open to the general public. The areas surrounding the pitches, outside the application site, would remain as pastureland. When not in use, there would be no effect on openness, and when in use the effect would be only limited, and could be minimised by the removal of goal posts when not in active use; this could be controlled by condition. However, the parking and manoeuvring area for the HGVs would have vehicles parked upon them.
61. As I have come to the conclusion that Appeal A is unacceptable then the majority, at least, of the horses used on the pitches are likely to be stabled away from the site. This would increase the need for HGVs to be parked on the site on an intermittent basis to allow practice or play. This would have a limited negative effect on openness which is the absence of buildings or development.
62. Insofar as openness has a visual component, I will assess the effects of this, and thus the degree of harm which I will consider in my conclusions, in the next section of this decision.

⁵ Paragraph 6.1 of the Appellant's Counter Representations on Appeal B.

Character and appearance

63. Currently the appeal site areas are generally laid to grass. There were some paddocks on the site. However, the grass, particularly on the east field, had a significant number of weeds, and following the dry summer, was suffering from cracking, which would make it less than suitable for polo.
64. The creation of both a polo pitch and a stick and ball pitch would inevitably mean that the areas would receive more maintenance giving the areas a more manicured appearance. This would not, however, detract from the character and appearance of the rural area.
65. The appellant has indicated she would accept a planning condition preventing any permanent structures relating to the appeal site including stands, seating, floodlighting and loud speaker systems. However, insofar as any of these would represent 'development' they would need to be the subject of a separate application for planning permission and therefore I give this limited weight.
66. The parking of HGVs and player's cars on the appeal site would be harmful to the character and appearance of the area as this would be an urbanising feature in the area encroaching into the countryside contrary to one of the five purposes of the Green Belt. I give this harm substantial weight.
67. Overall, while the proposed change of use of the fields would be in keeping with the character and appearance of the area the creation of the parking area would be out of keeping. Therefore the proposal would not comply with Policy GB2 of the RWMLP as it would harm the character and appearance of the countryside. It would also not have regard to the intrinsic character and beauty of the countryside as required by paragraph 17 of the Framework.

Other considerations

68. The appellant has put forward a number of other considerations in support of the proposals. Firstly, as with Appeal A, is the relationship to paragraphs 73 and 81 of the Framework and the opportunities for sport and recreation to make an important contribution to the health and well-being of communities, and that opportunities for outdoor sport and recreation, enhancing visual amenity and improving damaged land all should be taken into account. As with Appeal A the polo facilities to be provided would be a private facility rather than a public facility and therefore I can only give these benefits moderate weight.
69. Secondly, as has been pointed out that in the event that the appeal were to be dismissed permitted development rights under Class B of Part 4 of Schedule 2 of the Permitted Development Order would allow the appeal sites to be used for up to 28 days in any calendar year for the same purpose. In judging the effect of this it is necessary to compare this fall-back position with the level of use proposed under the application. It is stated that the polo season takes place during the months of May to September, ie five months or 22 weeks, with Members visiting the site once or twice a week for practice sessions or matches. However, it is not clear whether the practice sessions or matches are for all members or just some, so that while individual members may play once or twice a week, practice sessions or matches may take place more frequently.
70. The Council has set out conditions which it considers should be applied in the event that the appeal is allowed, one of which would limit the number of

matches played. The appellant has indicated general agreement to this proposed condition subject to it also including two tournaments, which are multiple matches on a single day. Adding the 50 matches, 50 practice matches and two tournaments would give 102 days, roughly four and a half days a week during the period May to September, when compared than the one and a quarter days a week which could be achieved under permitted development over the same period. In addition the application would allow unlimited use of the practice area. I would accept the appellant's argument⁶ that when in use under permitted development up to 224 matches could be played during the 28 days. However, in my view this is not a likely occurrence, particularly if polo ponies had to be brought onto the land, as there would be either no, or comparatively limited stabling on site if a change of use of the buildings is delivered through permitted development.

71. Given this, while there is a greater than theoretical possibility that the areas would be used under permitted development rights, this would at approximately one-quarter the level of activity when compared with the application proposal. I therefore give the fall-back position only limited weight.
72. As set out in relation to Appeal A Policy GB6 deals with equestrian establishments. My reading is that an 'establishment' applies to an operation centred around buildings rather than the creation of polo pitches. On this basis Policy GB6 is not engaged by this proposal. In any event, if the proposal did represent an 'establishment' I am satisfied that the proposal would meet the criteria which I have set out above as, if Appeal C were to be allowed, there would be sufficient residential accommodation to meet the needs of the proposal, there would be no harmful proliferation of commercial equestrian establishments in the area, no unacceptable traffic hazard, and there would be sufficient land to exercise horses off the public highway.
73. Finally, is the general support for the rural economy running through the Framework, and in particular set out in paragraph 28. Unlike the situation in Appeal A, there would be little employment generated by the proposal, being essentially restricted to maintaining the pitches. I therefore can only give this element very limited weight in favour of the development.

Overall conclusions in respect of Appeal B

74. As inappropriate development in the Green Belt paragraph 88 of the Framework indicates that substantial weight should be set against the proposal and there would be harm to openness and the character and appearance of the area to which I have given significant weight.
75. Set against this are the benefits of providing opportunities for sport and recreation, enhancing visual amenity and improving damaged land. I give these benefits moderate weight. For the reasons explained above I give the fall-back position only limited weight and I give only very limited weight to the economic benefits of the proposal.
76. Taken together I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

⁶ Section paragraph 6.7 in the Appellant's Counter Representations on Appeal B.

77. For the reasons given above I conclude that the appeal should be dismissed.

APPEAL C

Preliminary matters

78. This application relates to the dwelling on the landholding. The use of the building is currently a dwelling and this would not change; all that would change would be who would be able to occupy it. The appellant makes clear it is not her case that the condition should be removed, rather varied to allow the dwelling to be occupied by, in addition to the current restriction, by an equestrian worker.

79. The wording proposed on the application form would be:

The dwelling shall be occupied only by persons solely or mainly employed, or last employed, on the application holding in agriculture (as defined in Section 336 of the Town and Country Planning Act 1990) or in forestry or for an equestrian manager and/or grooms or a widow or widower of such a person, and by any resident dependents.

80. The proposed wording does not propose to widen the occupation to those so employed in the locality, and no consultation was carried out on this upon which third parties might have wished to make representations. I am therefore going to limit my consideration to the proposal to add the words "or for an equestrian manager and/or grooms" to the existing form of the condition.

81. The proposal does not represent "development" as described in Section 55 of the Town and Country Planning Act 1990 (as amended) as it represents neither operational development nor the making of a material change of use, but, as set out in the heading, relates to an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.

Main issue

82. The Council has indicated that it would have refused the application as inappropriate development in the Green Belt. However, as the proposal is not for a material change of use, it would remain a dwelling, the proposal does not represent "development" and therefore it cannot be "inappropriate development". That being the case the main issue is whether it would be appropriate to widen the occupancy restriction as set out above.

Reasons

83. Although I have concluded that Appeals A and B should be dismissed, it does not necessarily follow that this Appeal C should too be dismissed.

84. The policies I have been referred to by both the Council and appellant refer to the Green Belt and, as I have discussed above, are of limited weight in dealing with the application to vary a condition. I will therefore consider the proposal on the basis of the policies in the Framework, which is, of course, a much more recent espousal of policy than the RWMLP. The appellant refers to Policy GB8, but as this relates to changes of use of buildings is not material for the reasons set out above.

85. Paragraph 55 of the Framework allows as a number of exceptions to the normal restrictions avoiding new isolated homes in the countryside. However, unlike previous policy in PPS7⁷ which related primarily to agricultural and forestry workers the Framework allows a dwelling where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
86. I have found in relation to Appeals A and B that there is more than a theoretical possibility that permitted development rights may be utilised to allow a limited equestrian enterprise to take place on site. Extending the occupancy of the dwelling to allow an equestrian worker at the landholding would allow for that to take place. This would be in line with paragraphs 28 and 81 of the Framework which seek to support economic growth of all types of business in rural areas, and would assist in supporting opportunities for outdoor sport and recreation providing a beneficial use in the Green Belt.
87. Having regard to the advice in paragraph 206 of the Framework and in the national Planning Practice Guidance (the PPG) widening the occupancy to a "rural worker" would not be sufficiently precise to allow for proper enforcement, and therefore should be limited, as applied for, to a person employed or last employed as an equestrian manager and/or grooms. However, to also reflect changes in relationships, there should also be reference to surviving civil partners as well as widows and widowers.

Conditions

88. By allowing the appeal and granting planning permission I am granting a second planning permission for the dwelling⁸. The original 2009 planning permission had four other conditions relating to the implementation of the planning permission, landscaping works, the removal of the mobile home on site and removal of certain permitted development rights.
89. The need for the first two conditions has passed, but at my site inspection I noted that there was a mobile home on site. In order to ensure certainty I will therefore re-impose that condition as it is not part of the appellant's case that there is a need for two dwellings on site.
90. While the PPG indicates that permitted development rights should only be restricted in exceptional circumstances⁹, the site is located in the Green Belt and the use of permitted development rights to extend could lead to disproportionate additions over and above the size of the original dwelling. This would result in inappropriate development in the Green Belt which, of course, should not be approved except in very special circumstances. I am therefore satisfied that in this exceptional circumstance permitted development rights should be removed in respect of the enlargement, improvement of other alteration to the dwelling, its roof or the provision of a building in its curtilage incidental to the enjoyment of the dwellinghouse. However, I have altered the wording of this condition to better reflect the relevant guidance.

⁷ Sustainable Development in Rural Areas

⁸ See paragraph reference 21a-031-20140306 of the PPG

⁹ Paragraph reference 21a-017-20140306

Conclusion

91. For the reasons given above I conclude that the appeal should succeed.

RJ Jackson

INSPECTOR