
Appeal Decision

Site visit made on 4 October 2016

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 4 November 2016

Appeal Ref: APP/D0121/W/16/3153415

Hengaston Barn, Gatcombe Lane, Flax Bourton, North Somerset BS48 3QU

- 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 Anne Whaley against the decision of North Somerset Council.
 - The application Ref 16/P/0579/F, dated 19 January 2016, was refused by notice dated 13 May 2016.
 - The development is described as 'make 12 x 15m area of field (already used for horse turnout) into all weather surface for horse turnout. Remove topsoil, add stone (approx. 3ins depth) and sand (approx. 4-5ins). Add 12m post and rail fence 9 inc gate)- marked A-b on plan'.
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Decision

1. The appeal is allowed and planning permission is granted for a 12x15m area of field (already used for horse turnout) into all weather surface for horse turnout. Remove topsoil, add stone (approx. 3ins depth) and sand (approx. 4-5ins). Add 12m post and rail fence 9 inc gate) – marked A-b on plan at Hengaston Barn, Gatcombe Lane, Flax Bourton, North Somerset BGS48 3QU in accordance with the terms of the application Ref 16/P/0579/F, dated 19 January 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: Site Plan; Block Plan; Fence Detail Plan.
 - 2) Use of the development hereby permitted shall not commence until a written Waste Strategy outlining the management of manure and waste products arising from the development has been submitted to and approved in writing by the Local Planning Authority (the LPA). The terms of this Waste Strategy shall be adhered to throughout the life of the development.
 - 3) The development hereby permitted shall be used solely for horses stabled at Hengaston Barn within the area shown edged blue on the approved Block Plan, and shall not be used for any commercial equestrian activity, for the life of the development.

Application for costs

2. An application for costs was made by Dr Anne Whaley against North Somerset Council. This application is the subject of a separate Decision.

Procedural matter

3. At the time of my site visit the sand horse turnout enclosure had already been installed. I have determined the appeal on the basis that it seeks retrospective planning permission for the development shown on the submitted plans.
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Main Issue

4. The appeal site is situated within the Green Belt, however there is no dispute between the parties in relation to the effect of the appeal scheme on the Green Belt. In consideration of the National Planning Policy Framework, March 2012 (the NPPF), I am satisfied that the appeal scheme is not inappropriate.
5. In light of the above, the main issue in this appeal is the effect of the development on the living conditions of neighbouring residents at Rudge Farm, with particular regards to odour and disturbance.

Reasons

6. The appeal site is associated with Hengaston Barn, a residential dwelling set in sloping, spacious grounds in a rural location between Long Ashton and Flax Bourton. An extant permission approves the use of the majority of the land, containing a small stable block, ménage and fenced field enclosures for grazing horses, for equestrian purposes.
7. The development under consideration has already occurred and relates to the retention of a small, sand-based and fenced enclosure alongside the western boundary of the site. One side of the enclosure abuts the boundary with the neighbouring property, Rudge Farm, close to the kitchen and side garden. A mature boundary hedge, in excess of fence height, runs the entire length of the wider field enclosure. The hedge that bounds the appeal enclosure appeared to have been recently cut and the level of screening reduced by the apparent loss of a tree that existed along the boundary.
8. The land that runs adjacent to the boundary with Rudge Farm is in consented use for equestrian purposes. However, representations from interested parties raise concerns that the fenced enclosure has intensified the use of the land close to this neighbouring dwelling and garden, resulting in an increase in unpleasant odours, insects and general disturbance. I am sympathetic to these concerns, and to the value the neighbours place on the enjoyment of their garden by themselves and their grandchildren.
9. I do accept that, when in use, the size and location of the enclosure would increase the likelihood of horses and their excretion coming in closer proximity to the neighbour's kitchen and side garden. However, in my judgement, the size of the enclosure would restrict the number of animals being kept within it at any one time. Furthermore, the Environmental Protection Officer is satisfied that any harmful impact from potential odours can be mitigated through careful management of the waste. The sand and substrate base also provides better permeability compared to a compacted soil or field surface; any liquid waste that is passed close to the neighbour's boundary would consequently drain better than on a field surface.
10. In terms of other disturbance resulting from the appeal scheme, given the unpredictable nature of animal behaviour, any increased disturbance that would arise from distressed animals within the enclosure is hard to quantify. Bearing in mind that horses are permitted on the land and could roam freely up to the boundary with Rudge Farm, I do not consider the appeal scheme would result into material disturbance to the living conditions of neighbouring residents above and beyond that which would arise from extant permitted use of the land for equestrian purposes.

11. During my site visit, it was apparent that the sand enclosure has not been in use for some time, although the facilities overall appeared to be well managed and maintained. I have no reasonable evidence before me to suggest that, when in use, the sand enclosure would not be managed to an equally high standard and in accordance with an approved scheme for waste management.
12. While I accept, therefore, that the appeal scheme has concentrated equine activity closer to their boundary, I am not persuaded that this has given rise to any material harm to the living conditions of the occupants of Rudge Farm. Consequently, the appeal scheme does not conflict with Policy CS3 of the North Somerset Council Core Strategy, Adopted April 2012 (the Core Strategy) insofar as it seeks to restrict development that would result in harm to amenity or if the potential adverse effects would be mitigated to an acceptable level. The development is also in accordance with the principles of the NPPF, and the policies under Section 11, which seek to ensure developments provide a good standard of amenity for all existing and future occupants.

Other matters

13. I note the references to various supplementary guidance produced by other local authorities that prescribe minimum distances between horse related structures and neighbouring dwellings. The guidance is essentially established to ensure there is no harmful impact on living conditions. Given the open-air nature of the appeal enclosure and the waste management condition, irrespective of the proximity to Rudge Farm, I am satisfied that there is no material harm to the neighbour's living conditions. I cannot comment on the siting of the appeal scheme in comparison to turn-out areas developed on other sites. I therefore do not consider these documents, or the circumstances at other equestrian facilities, provide a useful justification for dismissing the appeal, which I have sought to address on its own merits.
14. I note damage to trees and hedging may have occurred during the groundwork phase of development, but there is no substantive evidence on this matter and so it has had little bearing on my overall conclusion.

Conditions

15. The Council has suggested three conditions. Condition 1 is necessary for the avoidance of doubt. Some information has been provided on how the waste will be managed, however the details are fairly limited. Condition 2 is therefore necessary to ensure a more precise strategy is approved by the LPA so that harm to living conditions arising from waste is mitigated. Condition 3 is necessary to ensure the use of the turnout area does not intensify, which would require further assessment of any effects, notably on living conditions and highway safety. I consider conditions of this nature would be precise and enforceable and would provide an acceptable degree of protection with regard to living conditions of the occupiers of neighbouring properties.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed.

H Porter

INSPECTOR