
Appeal Decision

Hearing held on 23 and 24 November 2016

Site visit made on 24 November 2016

by L Gibbons BA (Hons) MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/W1525/W/16/3147460

Land adjacent to 112 Brook Lane, Galleywood, Chelmsford, Essex CM2 8NN

- 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 Gary Mead against the decision of Chelmsford City Council.
 - The application Ref 15/01197/FUL, dated 10 July 2015, was refused by notice dated 16 October 2015.
 - The development proposed is the erection of a 2 loose box stable for the purposes of stabling horses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether the proposed development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - ii) The effect of the proposed development on the openness of the Green Belt and character and appearance of the area; and,
 - iii) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

3. The proposal is for a 2 loose box stable for the purposes of stabling horses. The appeal site is within a field which lies within the Metropolitan Green Belt. Paragraph 89 of the Framework sets out that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions relevant to this application are bullets one and two of that paragraph. The first bullet refers to buildings for agriculture and forestry. There is no qualification and I agree with the appellant that should the use fall under this exception, openness would not be a consideration. The second bullet refers to the provision of appropriate facilities for outdoor sport, outdoor
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recreation and cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

4. The appellant argues that the first paragraph of Policy DC1 of the Core Strategy and Development Control Policies Development Plan Document (CSDCP) is at odds with the Framework and also contains some internal inconsistencies. The first paragraph of Policy DC1 refers to all development proposals must preserve the openness of the Metropolitan Green Belt and not conflict with the purposes of including land within it. The second bullet of Part A) of Policy DC1 is the same wording as the Framework. I acknowledge there are slight differences between the wording of the Framework and the policy.
5. Nevertheless, in 2013 the Council undertook a Focussed Review of the CSDCP. This sought to ensure that the document was consistent with the Framework and only dealt with specific policies to bring them in line with the Framework. This included Policy DC1. The examining Inspector concluded that Policy DC1 was sound subject to a main modification relating to material change of use of the land¹. No other main modifications were proposed. Moreover, in commenting on the item relating to a material change of use, the examining Inspector also considered that the effects of paragraph 87,89 and 90 of the Framework when read together is that all development in the Green Belt is inappropriate unless it is comes under the categories in paragraph 90 and the exceptions listed within paragraph 89. I consider that the relevant parts of the policy are consistent with the Framework. I therefore afford the policy due weight.

Agriculture

6. At the time of my site visit, there were two horses in the field. The appellant submits that the field would be in agricultural use and that the proposed stables would be ancillary to that use, therefore falling under the first bullet of paragraph 89 of the Framework. Case law has established that the definition of ancillary in these terms is one of a functional relationship. The intention is that the land would be used for the grazing of horses. The Council accepts that the definition of agriculture² includes the use of land as grazing land. However, the Council considers that the proposal would amount to a recreational use and that the second bullet of paragraph 89 of the Framework would apply.
7. The appellant refers to two court judgements in relation to agricultural use. These are *Sykes v Secretary of State for the Environment and other* [1981] 42 P. & C.R and also *Fox v First Secretary of State* [2003] EWHC 887 (Admin). The facts of these cases are not directly comparable with the circumstances before me as both of these were enforcement cases with some activity already taking place in one form or another. In this case, there are no horses on the site at present. Although *Sykes* established principles about the use of land for grazing each individual case will need to be decided on its own facts in the light of the principles.
8. In *Sykes* the question asked was 'what is the purpose for which the land is being used'. *Sykes* set out that if horses are being kept on the land and are being fed wholly or primarily by other means then plainly the land is not being

¹ Report on the Examination into Chelmsford City Council Core Strategy and Development Control Policies Focused Review Development Plan Document (Local Plan) 2013

² s.336 of the Town and Country Planning Act 1990

- used for grazing but merely being used for the keeping of animals. One of the outcomes of the *Fox* decision was that a racehorse or 'kept' horse could still be considered to be grazing the land if this was its primary source of food.
9. There would be some hay and feed storage areas provided within the stable. I acknowledge that the amount of storage provided is based on conversations with the British Horse Society (BHS). The storage would provide enough space for the amount of hay each horse would consume during the winter months. The appellant considers that the horses would be grazed on the land between 75 and 85% of the year with times when they would be fed on other feed limited to the winter months. The Council consider that the amount of time that the horses would be able to use the land would be much more limited and would result in the need for additional supplementary feed beyond what is suggested by the appellant.
 10. The appellant refers to the amount of land that is generally thought to be needed to accommodate horses on permanent pasture as set out in the BHS Guidance relating to Pasture Management. This indicates that 1 to 1.5 acres per horse would be needed, based on factors such as horse size, type of pasture, soil quality, and the time of year amongst other things. In terms of the size of the horses, the ones present in the field were a former racehorse and a pony. The field is a total of 2 acres, which would indicate that it could theoretically accommodate 2 horses. However, the stables and hard standing would remove some of that area from the total amount available.
 11. The appellant confirmed at the Hearing that the intention was that the horses would be in this field year on year. Based on figures referred to in the BHS guidance the appellant considers that even less than 1 acre per horse could be sufficient to feed horses off the land wholly or permanently. However, I am not persuaded that the BHS guidance necessarily leads to this conclusion. Indeed, the guidance later states that over-grazing, over-stocking and poor management can result in the pasture becoming horse-sick and that the more acres available the easier it is to maintain good quality pasture through rotation and resting. I have not been provided with any information relating to how the pasture would be managed over the long term in order to accommodate the number of horses.
 12. The quality of the grazing land is an important factor. The Council indicated that the soil within the field is heavy and wet conditions would potentially damage the grass for the next season. This could affect the quality of the grass and availability of grass. I consider this in turn would affect the potential for the land to feed 2 horses wholly or permanently by reducing the number of months when pasture is available.
 13. I consider it is also necessary to look at the whole circumstances of the proposal and not solely the proposed feeding arrangements for the horses. I accept that no sand pit or manege is proposed. It is common ground between the parties that the horses would need some form of shelter. The Council refer to field shelters which allow horses or other livestock to freely roam and graze but at the same time providing shelter during more adverse weather conditions. In this case, the building would be a permanent structure which would also incorporate a tack room and additional feed storage as well as the hay store. I accept that these features could potentially be provided on the site in other structures such as portacabins and that there may be a need for

them. However, there was no information to indicate that the size of these features arise directly from the needs of stabling of two horses for agricultural purposes. Moreover, due to the type of doors on the stable this would have the potential to be restrictive in terms of the horses' ability to feed and roam at leisure. This would further reduce the potential for the horses to be feeding wholly or primarily from the field.

14. Therefore, I conclude that it has not been demonstrated that the field would be capable of accommodating of 2 horses being fed wholly or primarily from the land on a permanent grazing basis. The purpose for which the land would be used would not be for agriculture as related to the grazing of the land. The stable building would not have a functional relationship with an agricultural use and the scheme would not fall under the first bullet of paragraph 89 of the Framework.

Provision of appropriate facilities for outdoor sport, outdoor recreation

15. The Framework and Policy DC1 of the CSDCP allow for appropriate facilities for outdoor sport and recreation. This is providing the proposal preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
16. The appellant refers to the judgement of *Fordent Holdings*³. I have had regard to the purpose as well as the size of the proposed building. The Council acknowledge that stables are capable of being considered as an appropriate facility for outdoor sport or outdoor recreation. I consider that the stable in this case would provide a facility for outdoor sport and recreation. The tack room and additional feed store would amount to a sizable part of the proposal. There is no evidence to support the justification for these or that the size would be needed to meet the reasonable requirements of the proposed use. To my mind the building would be larger than is necessary and would not be appropriate for the intended purpose.
17. The Framework at paragraph 79 indicates that openness is an essential characteristic of the Green Belt. Openness is the absence of built or otherwise urbanising development. By reason of the inclusion of this bullet point within paragraph 89 there must be some acceptance that there would be some impact on openness as it allows for new buildings. The appellant accepts that the stable would have a modest impact on openness. However, if the use could be accommodated within a smaller structure with less volume, impact on openness could be minimised. In this case, the proposed building would be large with additional volume given over to features such as the tack room and additional feed store. I consider that it would not preserve the openness of the Green Belt.
18. The purposes of the Green Belt are set out in paragraph 80 of the Framework. In this case, the relevant purpose of the Green Belt is that to safeguard the countryside from encroachment. The appellant accepts that encroachment would occur to a very limited extent. The proposed access road and hardstanding would not add to the size of the proposal. Nevertheless, this would be a considerable area and would contribute to the site having a more developed and urbanised appearance than is the current situation. In combination with the large size of the stable, the development would encroach

³ *Fordent Holdings Ltd v Secretary of State for Communities and Local Government* [2013] EWHC 2844

into an undeveloped field within the countryside. The development would conflict with that purpose of the Green Belt. For the above reasons, I conclude that the proposal would not meet the exception set out in the second bullet of paragraph 89 of the Framework.

Conclusion on whether inappropriate development

19. I have found that the proposal would not fall into the exceptions set out in the first and second bullet of paragraph 89 of the Framework. It would be inappropriate development in the Green Belt. It would be contrary to Policy DC1 of the CSDCP. The Framework advises that inappropriate development is harmful to the Green Belt and should not be permitted except in very special circumstances.

Character and appearance

20. The appeal site is a fairly narrow, flat field located on land adjacent to 112 Brook Lane. The area further to the west of the appeal site includes the village of Galleywood which has a defined settlement boundary. Within the settlement boundary is ribbon development of mainly semi-detached houses on the south side of Brook Lane. Although this development can be seen within and adjacent to the appeal site it is some distance away and there is an intervening area of woodland and scrub. The wider area to the east has a verdant and rural appearance with mature hedgerows and small fields. I have been referred to the Galleywood Village Design Statement (VDS). The Council acknowledged that it should be treated as informal guidance only. The VDS amongst other things refers to the Lane as maintaining its quiet rural charm heading south-east out into the countryside.
21. No 112 Brook Lane is a small bungalow that sits within a large garden with a number of outbuildings and structures. Oakview which is to the west of No 112 is a detached house. However, whilst these houses are noticeable due to their white render they maintain a semi-rural appearance which does not significantly impinge upon the rural character of the lane in this location.
22. The stable building would be located adjacent to the boundary with No 112. I accept that the intention of the design of the building was to provide quality accommodation for the horses and that the dimensions of each loose box are in line with BHS guidance. I have found that the use of the field as associated with the stables would not be agricultural. Nevertheless, I accept that stables are found within the area. I also note that buildings can be found throughout the landscape.
23. The boundary between No 112 and the appeal site has a fence which allows clear views to the bungalow. To some extent when within the site this provides a connection to the built form of No 112. I accept that there are some large structures within the curtilage of No 112. However, the majority of these are set back some distance from the location of the proposed stable. In addition, when seen from the lane the site appears as part of the countryside and is lacking any development. The proposed stable building would be of a greater height and bulk than No 112. Moreover, the site is visible for some distance, including from outside Oakview. Due to the position of the stable within the field it would be seen as a very prominent feature in the street scene, particularly to those walking along the lane from this direction. For these reasons I do not agree with the appellant that the overall significance of this

would be minor. Although landscaping is not proposed as part of the scheme the appellant suggests that a condition could be attached to ensure this would be provided, particularly along the boundary with No 112. However, given the bulk and height of the building I consider this would not be sufficient to mitigate this effect. The side garden of No 112 acts as a transition from the semi-rural character of the road at this point to the open countryside. The position and size of the stable would add extend development beyond this point and it would not act as a transitional feature in the same way that the garden of No 112 does.

24. In addition, the proposal would necessitate a change in what is currently a very informal access to the appeal site. The access road would draw the eye and would have a more formal and urbanised appearance than exists at present. Lighting and vehicle movements would also add to the presence and visibility of the development.
25. The appellant refers to stables that were permitted at Maple Cottage to the east of the appeal site. This was granted planning permission in 2002 and was subject to different development plan policies. I note that there had been a previous application and the officer's report indicates that the scheme had been reduced and was acceptable in that context. That proposal was also partly within the curtilage of Maple Cottage. The area of the stable was also not as large as the proposed scheme. On the site visit I was made aware of other building which had been taking place at Maple Cottage. However, the full details of this were not provided. As such I consider this is not directly comparable to the circumstances before me.
26. For the reasons given above, I conclude that the proposed development would cause moderate harm to the character and appearance of the area. It would be contrary to the Framework where it relates to recognising the intrinsic character and beauty of the countryside.

Other considerations

27. The welfare of horses is a factor which would weigh in favour of the appeal scheme. I note that horses have not always been present on the site and the Council consider that the horses may not belong to the appellant. Nevertheless, at the time of my visit horses were present and there was no shelter available. Government guidance in relation to keeping horses indicates that horse owners have a responsibility to provide a suitable place for them to live. The stables would accommodate this requirement. I therefore give this consideration moderate weight. No other considerations were put forward in favour of the appeal scheme.

Conclusion

28. The proposal would be inappropriate development in the Green Belt, which is harmful by definition, and to which substantial weight should be attached. In addition there would be loss of openness and the scheme would cause harm to the character and appearance of the area. The consideration relating to animal welfare does not clearly outweigh this harm. Consequently, very special circumstances do not exist, and the proposal is contrary to Policy DC1 of the CSDCP. Therefore, for the reasons given above and having regard to all other matters raised, the appeal should be dismissed.

L Gibbons

INSPECTOR

APPEARANCES

FOR THE APPELLANT

G Mead	Appellant
M Green	Green Planning Studios Ltd
R Reed	Green Planning Studios Ltd

FOR THE LOCAL PLANNING AUTHORITY

S Hill-Sanders	Chelmsford City Council
P Chillingworth	

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- 1 Suggested conditions for a) storage of vehicles and b) landscaping
- 2 Plans and committee reports for Field adjacent Maple Cottage, Brook Lane