
Appeal Decision

Site visit made on 20 December 2016

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 26 January 2017

Appeal Ref: APP/J3015/W/16/3158167

Land North of Park View Cottage, Main Street, Strelley, Nottinghamshire NG8 6PD

- 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 Mrs K Oliver against the decision of Broxtowe Borough Council.
 - The application Ref 16/00165/FUL, dated 3 March 2016, was refused by notice dated 2 June 2016.
 - The development proposed is a barn with loose boxes and feed store.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has questioned whether the widened site access requires planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (The Act). It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
3. The appellant has stated that she would be willing to locate the proposed building 2 metres further away from the boundary with Home Farm Cottage and Park View Cottage. However, amended plans have not been submitted with the appeal and in any case the appeal process should not be used to evolve a scheme. The proposed amendment would involve revisions that are not of a minor nature and as such I cannot guarantee that no party would be prejudiced by my consideration of its content. Therefore, I have not taken it into account in the determination of this appeal.

Main Issues

4. The main issues are:-
 - Whether the proposal would constitute inappropriate development in the Green Belt, having regard to the effects on openness and the purposes of including land within the Green Belt and the development plan and national planning policy;
 - The effect on the character and appearance of the area;
 - The effect on the living conditions of the neighbouring occupiers with particular regard to outlook, noise and disturbance and smell;
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- 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

Background

5. The appeal site is located approximately 100 metres from Home Farm, the appellant's property, and is adjacent to a pair of semi-detached cottages, Home Farm Cottage and Park View Cottage. There is no dispute between the parties that the site has had planning permission for equestrian use since 2011/2012 subject to conditions restricting the use of floodlights, commercial use and the storage of manure. Planning permission was granted in 2013 for a 6 bay stable block and feed store which would be located to the north of the existing manège. The stables have not been constructed but the appellant considers that the permission is extant as a trench was dug to commence the development.
6. The appellant has said she would be willing to revoke the 2013 permission if this appeal were to be allowed. However, the revocation of an extant permission cannot be reasonably secured in this instance by a condition, and no other mechanism is before me that would give me confidence that, that would happen if I allowed this appeal. Therefore, that is not a matter to which I can give significant weight.

Whether the proposal would be inappropriate development in the Green Belt

7. Apart from certain clearly defined exceptions set out in paragraph 89 of the National Planning Policy Framework (the Framework) the construction of new buildings in the Green Belt is to be regarded as inappropriate development. Such development is harmful by definition and should not be approved except in very special circumstances. One exception defined within paragraph 89 of the Framework is the erection of buildings which provide appropriate facilities for outdoor sport and outdoor recreation, as long as they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. There is no dispute between the parties that the proposal would be defined as facilities for outdoor recreation.
8. Although based on previous national policy, saved Policy E8 of the Broxtowe Local Plan 2004 (LP) takes a similar approach to the Framework but it states that "appropriate development includes essential facilities for outdoor sport and recreation". As such this policy is more restrictive and not entirely consistent with paragraph 89 of the Framework. Under paragraph 215 of the Framework I consider that moderate weight should be given to LP Policy E8 in respect of its degree of consistency with the Framework.
9. I have no evidence before me to indicate that the development would be 'essential facilities' for outdoor sport or recreation and as such the proposal would be in conflict with LP Policy E8 but this policy conflict would have reduced weight.
10. However, paragraph 89 of the Framework is a significant material consideration in this case. As such, in establishing whether or not the

proposal would be inappropriate in the Green Belt, it is necessary to consider whether it would be 'appropriate facilities' for equestrian activities and whether it would preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

11. There is no definition of what constitutes 'appropriate facilities' within the Framework. However, it is reasonable to consider that to be 'appropriate facilities' any buildings must be commensurate in size to the reasonable requirements of the use to which they are to be put, looked at objectively. The appellant has stated that she owns 9 horses with one in livery due to injury, one kept at Stanton-by-Dale, 3 in stables at Home Farm and 4 sharing 2 fields in the Strelley area. She is a horse rider for personal pleasure but her son is a member of the British National equestrian team and rides regularly.
12. The number of horses is required to enable the appellant's son to compete in events. The appellant has stated that there is a need to consolidate the management and stabling of the horses. I acknowledge that the loose boxes appear to be of sufficient size in equestrian terms and that I have no evidence before me as to whether the 3 stables at Home Farm, the appellant's property, would continue to be utilised.
13. As such, I consider that based on the evidence before me that the proposal itself would constitute 'appropriate facilities' for this specific outdoor recreation use. However, there is no justification for the level of provision now proposed when it is taken with that subject of the 2013 permission. Consequently, I have no grounds to consider what is now before me would be 'appropriate facilities' on this site.
14. To qualify as an exception under paragraph 89, the development would also have to preserve the openness of the Green Belt and not conflict with the purposes of including land within it. The concept of openness is related to but not entirely the same as visual prominence and it can be taken as the absence or otherwise of buildings or development.
15. The proposed building would be sited on an area of open land and its construction would result in a built structure where there is presently none. Consequently, the footprint of the proposal and its bulk and massing would inevitably lead to a loss of openness. There are limited views into the site from outside its boundaries due to the existing hedgerows and landscaping but the increase in built form and resulting loss of openness would be clearly visible through the gateway from the bridleway.
16. The appellant considers that the proposal would be only slightly larger than the 2013 permission and as such the effect on openness would be similar. However, the proposal would be significantly larger in footprint and massing and slightly taller than the 2013 permission. I acknowledge that it would be in closer proximity to the cottages than the 2013 stables and that the existing access would be utilised whereas the 2013 permission would require a new access.
17. Whilst I have taken these factors into account, having regard to the footprint, height and massing of the proposed building compared to the 2013 stables, I consider that the appeal proposal would not preserve the openness of the Green Belt. Moreover, this harm would be compounded by the lack of an

appropriate planning mechanism to enable the revocation of the 2013 permission.

18. The appellant considers that the proposal would not threaten any of the purposes of including land within the Green Belt. However, I have found that the development would have an adverse impact on openness. I therefore consider that the proposal would conflict with the purpose of safeguarding the countryside from encroachment.
19. I have no evidence before me to show that the scheme would fulfil any of the other categories as set out at paragraph 89 of the Framework. Against this background the proposal would be inappropriate development within the Green Belt.

Character and appearance

20. The site is located adjacent to the Strelley Conservation Area (SCA) and whilst not within SCA the site does form part of the setting of SCA. From the evidence available to me I consider that the significance of SCA is largely drawn from the variety of historic buildings that it contains together with the use of materials, pattern of development and the relationship of buildings to the spaces around them including the parkland.
21. The form of the proposed building, including its appearance, is relatively low-key and would reflect its intended use. It would also be sited in close proximity to the boundary with the adjacent cottages and as such it would be seen in conjunction with existing buildings and would be largely screened from views out of SCA. These factors would limit the amount of harm caused to the site's existing rural character and appearance.
22. I noted at the site visit that the existing access gateway from the bridleway appears to have been widened from that shown in the April 2013 photograph in the Council's Officer Report. Whilst the removal of part of the hedgerow has opened up views into the site and eroded the rural character of the site the harm is localised. Furthermore, the treatment of the boundaries of the site including the access gateway could be dealt with by way of a planning condition if I was minded to allow the appeal.
23. Consequently, the proposal would not significantly harm the character and appearance of the area including the setting of SCA. It follows that there would be no conflict in this respect with Policies 10 and 11 of the Broxtowe Aligned Core Strategy (CS). These policies require, amongst other things, that all new development must have regard to its local context and be designed in a way that preserves or enhances the settings of nationally important heritage assets.

Living Conditions

24. The proposed building would be in close proximity to the boundary with the adjacent dwellings. However, the rear elevations of those dwellings would not directly face that part of the appeal site where the building would be sited such that the main view would be of its front corner. Moreover, taking into account the tall boundary landscaping and the outbuildings/greenhouses in the gardens of Home Farm Cottage and Park View Cottage the bulk and massing of the proposal would be appreciably softened.

25. I acknowledge that when the landscaping is not in full leaf the proposal would be more apparent. However, I consider that the proposed building would not be experienced by the neighbouring occupants as overbearing from their dwellings or gardens. As such, it would not significantly harm the living conditions of the neighbouring occupiers with particular regard to outlook.
26. The development would concentrate the additional activity associated with the stables in close proximity to the boundary with the neighbouring dwellings. Consequently, there would be the potential for an intensification of the use of this part of the site, comings and goings from the site and an increase in noise and disturbance emanating from these activities. I noted at my site visit that there is an appreciable background noise level from the constant, heavy traffic on the adjacent M1 motorway. I acknowledge that at different times of the day the background noise level may be different.
27. However, no noise assessment has been submitted and as such I have no evidence before me in relation to the existing background noise levels and noise levels from the existing use compared with the proposed noise levels. The noise attenuation from the proposed building, its materials and the location of the main entrance may reduce the potential noise and disturbance but I have no technical evidence before me to support this.
28. I note that the appellant has stated that there are no conditions restricting the hours of the existing use and that the Council's Environmental Health Technical Officer did not object to the proposal. However, the Council's Officer Report states that the use of the site for gymkhanas, eventing, trials or other commercial activity is restricted by condition.
29. Taking into account all of the above, the evidence before me does not offer sufficient clarity and robustness for me to be able to conclude that the proposed development would not cause unacceptable harm to the living conditions of neighbouring occupiers with particular regard to noise and disturbance. Moreover, from the information before me it appears likely that it would cause such harm.
30. Concern has been raised in relation to smell from the waste produced by the horses. There is no dispute between the parties that there is a condition restricting the location for the storage of manure on the site. I note that there is concern in relation to the alleged breach of this condition and that this is being investigated by the Council. However, that is not a matter for me to determine as part of this appeal. I consider that the issue of smell from horse waste could be mitigated by way of a condition in relation to drainage if I was minded to allow the appeal together with the enforcement of the existing condition.
31. In conclusion I have found that the proposal would not significantly harm the living conditions of the neighbouring occupiers with particular regard to outlook or smell. However, I have found that the evidence before me fails to demonstrate that the development would not cause unacceptable harm to the living conditions of neighbouring occupiers with particular regard to noise and disturbance. In this respect the proposal would not comply with CS Policy 10 and LP Policy RC17 which, amongst other things, require new development to create an attractive, safe, inclusive and healthy environment and not to cause unacceptable harm to local amenity.

Other considerations

32. The relocation of the appellant's horses onto one site would reduce trips to the existing sites. I note that the appellant has stated that the development would ensure the well-being of the horses is undertaken both correctly and effectively allowing sensible management of the horses and that it would support the sporting career of her son. Combined with the fact that paragraph 81 of the Framework identifies the provision of opportunities for outdoor sport and recreation as one of the beneficial uses of the Green Belt, this does offer some limited weight in favour of the appeal proposal.
33. I have found that the development would not harm the character and appearance of the area including the setting of SCA or the living conditions of the neighbouring occupiers in relation to outlook and smell. I acknowledge that the proposal would not harm the bridleway and that the existing access would be utilised. However, these findings of no harm are neutral factors which do not weigh for or against the proposal.
34. Reference has also been made to the 2013 planning permission, which the appellant is willing to revoke for a planning consent for the appeal proposal. However, as stated above, without an appropriate planning mechanism to enable this I cannot attach any significant weight to this as a consideration in favour of the appeal proposal.

Conclusion

35. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
36. For the reasons given above, I find that the totality of the other considerations does not clearly outweigh the Green Belt harm and the other harm to the living conditions to the neighbouring occupiers with particular regard to noise and disturbance. Consequently, the very special circumstances necessary to justify the development do not exist. As a result there is conflict with the development plan and the Framework as a whole.
37. Having had regard to all other matters raised, it is concluded that the appeal should be dismissed.

D. Boffin

INSPECTOR