The Planning Inspectorate

Appeal Decision

Hearing Held on 25 June 2019
Site visit made on 25 June 2019

by David Murray **BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1 July 2019

Appeal Ref: APP/A1910/W/18/3203796
Tipulo Stud, Haresfoot Grange, Haresfoot Park, Berkhamstead, Herts, HP4 2SU.

- 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 C Bannister against Dacorum District Council.
- The application Ref. 4/02813/17/FUL, is dated 31 October 2017.
- The development proposed is the change of use of the land to the mixed use for agriculture, forestry and equestrian use; erection of pole barn and single stable; stationing of a static caravan for residential purposes; and the construction of a manège.

Decision

1. The appeal is allowed and planning permission is granted for the change of use of the land to the mixed use for agriculture, forestry and equestrian use; erection of pole barn and single stable; stationing of a static caravan for residential purposes; and the construction of a manège, at Tipulo Stud, Haresfoot Grange, Haresfoot Park, Berkhamstead, Herts, HP4 2SU, in accordance with the terms of application 4/02813/17/FUL, dated 31 October 2017, and subject to the conditions set out in the attached Schedule.

Procedural matter

2. At the start of the hearing the nature of the proposal was discussed. The application forms describe the proposal as 'Retention of a static caravan, small pole barn, single stable with the addition of a 20m x 40m manège.' However, the Council considered that this did not reflect a change in the use of the land to equestrian use which the proposed buildings and manège are to be ancillary to. The main parties now agree on how the proposal should be described and I have used this description of development in the fourth bullet point set out in the above banner headings.

Main Issues

3. The main issues are:

    - Whether the proposed change of use and operational development constitute 'inappropriate development in the Green Belt;
    - The effect on the openness of the Green Belt;

- Whether the operational needs of the business provide clear justification for the residential mobile home and that such need is likely to be sustained; and
- If there is harm caused by being inappropriate development in the Green Belt, and any other harm, whether this is clearly outweighed by other factors so as to constitute very special circumstances.

Reasons

Background

4. The appeal site extends to about 14.5ha which comprises about 8ha of woodland and the remainder is grassed paddock. The land is gently undulating pasture which slopes down to the A41 interspersed with areas of woodland. The site lies in open countryside well away from any settlement and forms part of the Green Belt.

5. The land has been used for equestrian purposes since about 2013 and the proposed buildings and manège would be ancillary to this principal use along with forestry/woodland management. In particular, the appellant and her partner run Tipulo Stud which specialises in Andalusian horses and they have a stallion which is used for recreation purposes, training and competition, as well as 6 mares/foals.

6. The proposal involves the erection of a pole barn and stable and construction of a manège and the siting of a caravan/mobile home for living accommodation. At the time of the Hearing site visit, I noted the presence of the caravan and pole barn. There was also a single stable for the stallion but it is the intention of the proposal to relocate this to a site closer to the mobile home.

7. I also note that a previous planning application related to the site was refused by the Council and dismissed at appeal in 2017 under ref. APP/A1910/W/17/3174542. That proposal was for an 'equine reproduction and rehabilitation centre…..with main building, breeding barn, office, mare and stallion boxes and staff area; storage barn, quarantine barn and manège.' The Inspector concluded that that scheme would represent inappropriate development in the Green Belt and would harm its openness. The factors raised in support of the proposal did not clearly outweigh the substantial harm that would result. Consequently, he concluded that very special circumstances did not exist.

Policy context

8. The development plan includes the Council's Core Strategy adopted in 2013 (now referred to as the CS) and saved policies in the Council's Dacorum Borough Local Plan adopted in 2004 (LP). The CS policy in respect of the Green Belt is CS5 and I agree with the parties that this is broadly consistent with the policy set out in the National Planning Policy Framework (NPPF) in terms of the forms of development that are inappropriate in the Green Belt. Moreover, in terms of the erection of new buildings, the policy refers back to national policy in any event.

9. Saved LP policy 81 relates to equestrian activities, including in the Green Belt. This policy can only be given moderate weight as its provisions are not wholly consistent with the NPPF Green Belt policy. Further, although the policy sets

out a presumption against new commercial equestrian facilities unless they can be accommodated in existing buildings, the policy goes on to establish that 'small scale facilities' will normally be permitted in the Green Belt provided that stated criteria are met. The Council accepts that the proposed buildings and the manège fall within the scope of 'small scale facilities' and that the proposal does not conflict with any of the stated criteria in the policy.

Whether inappropriate development

10. Section 13 of the NPPF concerns protecting Green Belt land and paragraph 143 indicates that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 sets out that the construction of new buildings is inappropriate unless one of the stated exceptions apply. The relevant categories for this case are (a) - buildings for agricultural and forestry; and (b) - the provision of appropriate new facilities for (amongst other aspects) outdoor sport and recreation. The latter is subject to a test of the preservation of the openness of the Green Belt and the purpose of including land within it.

11. The appellant's proposal is a hybrid of equestrian, agricultural and forestry development and uses. From the written evidence provided and as amplified at the Hearing, I am satisfied that the proposal accords with the provisions of part (b). The new buildings proposed are very small in scale and can reasonably be described as appropriate facilities to be used in conjunction with equestrianism and therefore outdoor sport and recreation. The scale of new building now proposed is substantially and materially different in size and scale to those previously considered in the 2017 appeal scheme where the footprint of the building would have exceeded the area of the proposed manège and where the overall use of the building would have been primarily as an equine reproduction and rehabilitation centre.

12. I am also satisfied that the proposal accords with paragraph 146 (b) and (e) of the NPPF which deals with other forms of development which are not inappropriate in the Green Belt, subject to a test of the effect on openness. Here, the construction of the manège is considered under (b) as an engineering operation, however, the scale of the manège is not significant and it would fit in with the gentle slope of the land and would not be prominent or harmful to the open landscape. Further, under part (e), the siting of the residential caravan would, in principle, be ancillary to the use for outdoor sport and recreation, subject to the consideration of the other main issue about the justification for a residential unit in this isolated location.

13. Overall, I conclude that the new buildings and operational development proposed would meet the recognised provisions for exceptional forms of development in the Green Belt as set out in paragraphs 145 and 146 of the NPPF and would not amount to inappropriate development.

The effect on openness

14. It is recognised that the effect on openness includes a spatial as well as a visual dimension. The new buildings proposed, as well as the caravan, are shown to be sited along the ridge of land that slopes away but they are not prominent in the landscape as they are seen against a backdrop of woodland and are generally sited under or close to the canopies of mature trees. The

buildings are modest in scale and have a verdant form. Further, the Council accepts that the buildings are nor seen from the public realm.

15. In terms of the spatial dimension, at my site visit I considered that the buildings proposed are very small in scale individually and are not a substantial building form even when seen as a group. The Council refers to the overall spread of the buildings at some 60m but it appeared to me that taken together the group of buildings and the siting of the caravan did not spread out that far and in any event the proposal is to consolidate the group by the relocation of the stable.

16. The manège would be constructed on the open land to the front of the building group. Even with a limited 'cut and fill' to ensure that it has a level surface, together with the proposed surrounding fence, the facility would not have the appearance of building or physical enclosure and would be open in nature.

17. The presence of the proposed caravan would have an effect on openness even though this would be related to a use rather than be a structure. There would also be some limited residential paraphernalia around it. Further, the elevations of the caravan are a light colour, but this would hardly be visible in the landscape outside of the immediate confines of the site.

18. Taken as a whole, I find that the development proposed would not adversely affect the openness of the Green Belt and this essential characteristic of the land would be preserved.

Conclusion on Green Belt

19. In addition to the assessment with national policy, I also find that the proposal would accord with CS Policy CS5 as it is small scale development that is appropriate in national policy and it has no significant impact on the character and appearance of the area, and would be likely to support the rural economy and the maintenance of the wider countryside.

Whether residential mobile home justified

20. Paragraph 79 of the NPPF indicates that new isolated homes in the countryside should be avoided unless stated exceptional circumstances apply and the one relevant to this case is (a) where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. The parties agree that the site lies in a remote location and I concur having regard to the findings of the Court in the case of *Braintree*[1].

21. At the Hearing the appellant and her husband described their work on the equestrian enterprise together with the woodland management and forestry activities. They explained that it involved a full time job for Mr Banister. He gave a breakdown of the time spent on animal welfare and equestrian sport and recreational activities on and off the site, as well as seasonal and irregular forestry work with woodland management. Mr and Mrs Banister also explained that because of the time taken to deal with the revised proposal following the rejection of the previous appeal, the operation has in part been 'treading water' until a decision has been made on the present appeal.

[1] *Braintree DC v SSCLG et al [2018] EWCA Civ 610*

22. Nevertheless, from all of the evidence submitted, including the support from local people and businesses, I found the appellant and her husband to be genuine in their intentions to develop the equestrian business without having in mind the scale of breeding use/rehabilitation previously proposed. I am satisfied that their projections to continue to develop the equestrian business and its recreational potential on a modest footing are reasonably based and would be likely to provide a means of sustaining the modest business in the longer term.

23. Although the number of horses on site at the moment are limited to the stallion and 6 mares/foals, on the evidence put forward and my observations at the site visit there appears to me to be a clear need for someone to normally be on hand 24 hours a day for animal welfare and security.

24. Overall on this issue, I conclude that there is and likely to continue to be an essential operational need for a worker to live permanently on site and supervise the equestrian and forestry enterprise. The proposal therefore meets the test set out in paragraph 79 of the Framework for a residential unit in this isolated location.

Planning balance and whether very special circumstances

25. Bringing together my conclusions on the main issues, I have found that the proposal for a mixed use of agriculture, forestry and equestrian purposes and involving the erection of the pole barn and stable, construction of the manège and siting of the residential caravan would not amount to 'inappropriate development' in the Green Belt. Further, when considered as whole the new buildings proposed, together with the engineering operation of the construction of the manège and the siting of the caravan would not have an adverse effect on the openness of the Green Belt. As such, the proposal would not be at odds with protecting the Green Belt as described in section 13 of the NPPF.

26. Further, in terms of national policy on residential development, although the site lies in an isolated location in the countryside, is has been reasonably demonstrated that there is an essential operational need for a rural worker to permanently live on site. The guidance in paragraph 79 of the NPPF is therefore complied with.

27. In relation to the development plan, the proposal would accord with CS Policy CS5 as it is small scale development that is appropriate in national policy and it has no significant impact on the character and appearance of the area, and would be likely to support the rural economy and the maintenance of the wider countryside. The proposal also meets LP Policy 81 on equestrian activities.

28. As the proposal would not harm the Green Belt nor constitute 'inappropriate development' I do not need to consider whether very special circumstances exist. Further, the overall accord with development plan and national policy is not outweighed by any other consideration. I will therefore allow the appeal.

Conditions

29. At the Hearing the Council recommended 8 conditions (as referred to numerically) be imposed on any permission and Mr Whale for the appellant submitted variations to, or consolidation of these (as referred to by letters).

30. The standard time limit condition on the implementation of the development is necessary as some parts of the proposal are not retrospective. Further, as a special case has been put forward for the appellant and her husband to live on site, I will impose the personal occupancy restriction condition (a) suggested on behalf of the appellant. I will also impose condition (b), as modified, to ensure that the use for the siting of the residential caravan is limited to the period when it is occupied by the Bannisters and provided the equestrian use does not cease. These restrictions are necessary in order to prevent the formation of a general residential use in this isolated location in the countryside.

31. I will also impose condition (c), as modified, as it better deals with the various details of the development that are still needed and their implementation to ensure an acceptable form of development in this rural location. This replaces conditions 3, 4, 5 and 6 recommended by the Council. In any event I have concerns about condition 5 as it relates to matters beyond the scope of this application and, as it is imprecise, it does not meet the test of conditions. I also do not consider that condition 7 is reasonable and necessary as the parking of vehicles outside of the permitted hours would not have a materially greater impact on the open character of the Green Belt. Finally, I will impose condition No. 8 in the interest of clarity and to ensure an acceptable form of development in this sensitive location.

Conclusion

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

David Murray

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The use hereby permitted shall only be carried out by Catherine and Michael Bannister and any dependents.

3. When the land ceases to be occupied by Catherine and Michael Bannister and any dependents, or the equestrian use ceases, the residential use hereby permitted shall cease and the static caravan plus any structures, equipment and materials brought onto the land for the purpose of such use shall be removed from the land.

4. The structures hereby permitted shall only be used for the purposes of equestrian, outdoor recreation, agriculture or forestry.

5. The use hereby permitted shall cease and the static caravan plus any structures, equipment and materials brought onto the land for the purposes of such use shall be removed from the land within 28 days of the failure to meet any of the requirement set out in (i) to (iv) below:

    (i) Within 3 months of the date of this decision, a scheme (hereafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority including a timetable for its implementation. The Site Development Scheme shall include details of: the internal layout of the site, including the siting of the static caravan; areas for vehicle access, turning and manoeuvring and parking; existing and proposed lighting of the boundary of and within the site; fencing and other means of enclosure; hard and soft landscaping; areas for hardstanding, refuse collection; existing and proposed levels, including for the manège; materials for the cladding of the static caravan.

    (ii) Within 6 months of the date of this decision, the Site Development Scheme shall have been approved by the local planning authority or, if the local planning authority refuse to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to and accepted as validly made by the Secretary of State.

    (iii) If an appeal is made pursuant to (ii) above, that appeal shall have been finally determined and the Submitted Development Scheme shall have been approved by the Secretary of State.

    (iv) The approved Scheme shall have been carried out and completed in accordance with the approved timetable and works comprised in the Scheme shall be thereafter retained for the juration of the development.

6. Notwithstanding details to be approved under the above conditions, the development hereby permitted shall be carried out in accordance with the following approved plans:

952-P01 Rev C (site location plan)
1099-01 (site plan)
952-P07 Rev A (manège plan)
1099-02 (caravan roof and elevations)
1099-04 (stable building roof plan and elevations)
1099-05 (turn out barn roof plan and elevations)

APPEARANCES

FOR THE APPELLANT:

Mrs C Bannister	Appellant
Mr M Bannister	Appellant's husband
Mr S Whale	of Counsel, Landmark Chambers.

FOR THE LOCAL PLANNING AUTHORITY:

Ms I Keen	Assistant Team Leader, Development Management, Dacorum Borough Council.
Ms O Stapleford	Assistant Team Leader, Planning Enforcement, Dacorum Borough Council.

INTERESTED PERSONS:

S Ahern	Local resident