

Appeal Decision

Site visit made on 2 July 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Appeal Ref: APP/W1525/W/18/3216809

Land adjacent to 112 Brook Lane, Brook Lane, Galleyend, Chelmsford 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 18/00545/FUL, dated 20 March 2018, was refused by notice dated 21 May 2018.
 - The development proposed is the erection of two loose box stable.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has requested that the appeal proceed by way of a hearing. However, the Council has confirmed it is satisfied that the appeal can be dealt with via written representations and, following my assessment of the evidence, I am satisfied that I have sufficient information on which to make a decision.
3. The Council is in the process of producing a new Local Plan which upon adoption would replace the Core Strategy, North Chelmsford Area Action Plan and Site Allocations Document. At the time of my consideration of the appeal the Local Plan remains unadopted and, since it is subject to change, I afford its policies limited weight.

Main Issue

4. The site falls within an area of Green Belt. Accordingly, the main issues are:
 - Whether the proposal is inappropriate development within the Green Belt for the purposes of the Framework and development plan policy; and
 - The effect of the proposed development on the openness of the Green Belt and the character and appearance of the area; and
 - If the development is inappropriate, 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 in the Green Belt

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145. Exceptions cited include buildings for agriculture and forestry and the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
6. Policy DC1 of the Core Strategy and Development Control Policies Development Plan Document (2008)(DPD) states that planning permission will be refused for development within the Metropolitan Green Belt, except where the development is for a new building it falls within one of a number of identified exceptions, including purposes directly related to agriculture and the provision of appropriate facilities for outdoor sport and, amongst other things, outdoor recreation. I acknowledge that there are some inconsistencies between the Policy and the National Planning Policy Framework (the 'Framework')(2019), however, the general thrust of the policy, to prevent urban sprawl by keeping the land permanently open, is in line with the Framework and I therefore afford it due weight.
7. The appeal site comprises a field of approximately 0.8 hectares, which is located within the Metropolitan Green Belt. The site is located to the east of properties along Brook Lane, near the settlement of Galleyend. At the time of my site visit there were three horses within the site. The proposed stables would comprise two loose boxes, a hay store and a tack room with welfare facilities. The existing access would be repaired and widened where necessary and an access gate and porous hardstanding would be constructed. A packaged treatment plant and soakaway would also be constructed within the site.

Agriculture

8. The appellant asserts that the proposal should be considered an agricultural building as the stables are to facilitate the grazing of horses on the land and has drawn my attention 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).
9. A proposal for a similar scheme at the site has previously been considered at appeal, reference APP/W1525/W/16/3147460. In this case, the Inspector found that it had not been demonstrated that the field would be capable of accommodating 2 horses being fed wholly or primarily from the land on a permanent grazing basis and that therefore, the stable building would not have a functional relationship with an agricultural use. The appellant has sought to address the Inspector's concerns through the submission of an agricultural appraisal and by reducing the size of the stables.

10. The agricultural appraisal (AA) considered whether the appeal site could support two horses grazing on the land. In respect of the appeal site, the AA concluded that the appeal site, after deduction of the area used for the stable, could produce approximately 76% of the requirements of two average size horses for a year. The appraisal also considered land at Mill Road, however, I have no substantive details of this site and have therefore not considered the contribution that this site would make further.
11. The appellant has drawn my attention to the Brazil¹ and Main² judgements which considered ancillary uses. I accept that it is the primary purpose which determines the character of the user and that the definition of ancillary in these terms is one of a functional relationship. I also accept that it is possible for land which is being grazed by horses to constitute agricultural land. The Sykes case makes it clear that the use of land for the purposes of grazing horses can constitute an agricultural use where horses are being kept on the land with a view to their grazing and are kept there for 24 hours a day, seven days a week over a period and, as confirmed in Fox, it doesn't matter whether they are racehorses or carthorses.
12. The site comprises a discrete parcel of land, much of which would be used for grazing. The AA states that the site could produce up to 76% of the requirements of two average size horses for a year. This would mean that almost a quarter of the animals' annual feed, a significant proportion of their diet, would need to be brought to the site. At the time of my site visit there were three horses grazing in the field, which, even if present temporarily, would be likely to increase the need for supplementary feeding.
13. The provision of permanent stables, including a hay store, tack room and welfare facilities would, in my view, go beyond the basic provision of shelter which could be met by other means and indicates that the primary purpose of the site would be the keeping of horses. The horses are not owned by the appellant and from the evidence before me, it appears that horses have not been consistently kept at the site, nor is it clear that they would consistently be kept at the site in the future. Indeed, since the appellant does not own the horses, there may be periods of time when there would be no horses at the site at all.
14. Thus, on the evidence before me, I am not persuaded that the proposed stables would be ancillary to an agricultural use and would therefore not fall to be considered under Paragraph 145 (a) of the Framework.

Provision of appropriate facilities for outdoor sport, outdoor recreation

15. Although the appeal scheme was submitted on the basis that the stables would be ancillary to an agricultural use, the appellant has requested that I consider the proposal against Paragraph 145 (b) of the Framework which allows the provision of appropriate facilities (in connection with the existing use of land or change of use) for outdoor sport, outdoor recreation...as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

¹ Brazil (Concrete) Ltd. & Another v Amersham Rural District Council & Another [1967] 18 P. & C.R. 396

² Main v Secretary of State for the Environment and Another [1998] 77 P & CR 300

16. The appellant has drawn my attention to the Fordent Holdings³ and Europa Oil⁴ judgements. I accept that a building for outdoor recreation can be regarded as not inappropriate so long as it complies with Paragraph 145 (b), as set out above.
17. The proposed stables would measure approximately 11.35m by 4.82m and would be up to 5.28m in height. I accept that the size of the loose boxes would be in line with British Horse Society Guidance. However, the hay store is designed to store the annual feed requirements which I do not consider would be necessary, nor am I persuaded that the tack room and welfare facilities would be the minimum required.
18. I acknowledge that the appellant has relocated the proposed stables, reduced the area of hardstanding and has sought to reduce the size of the proposed stables compared to the previous appeal scheme. However, given the size of the building and the height of the pitched roof with canopy to the front, the proposal would result in a substantial, permanent structure which would encroach into an undeveloped field within the countryside. This would not preserve the openness of the Green Belt. Thus, the proposed stables would not meet the exception set out in Paragraph 145 (b) of the Framework.
19. I have found that the proposed development would not meet the exceptions set out in Paragraphs 145 (a) and (b). The proposal is therefore inappropriate development in the Green Belt, and as such, would conflict with Policy DC1 of the DPD and the Framework (2019).

Character and appearance

20. The appeal site comprises a roughly rectangular plot of land to the east of No 112 Brook Lane. The site is bound by mature vegetation to the north, east and south of the site and wooden post and rail fencing to the west and is accessed via a grassed track with a wooden gate. Although the site is adjacent to a No 112, which has a semi-rural character, the character of the area along this section of Brook Lane is generally rural, particularly when approaching the site from the east.
21. The proposed stables would be located towards the north eastern corner of the site, and would be positioned behind mature vegetation along the northern boundary, limiting views of the building from outside the site. Although views of the stables would be restricted by vegetation, the effectiveness of the screening would diminish over the winter months and the building would appear a more prominent feature in the landscape. Furthermore, any reduction in height of the hedgerow would increase the building's visual prominence from Brook Lane. Given the proximity of the hedgerow to the highway I consider it highly likely that its growth would not be controlled through cutting. Although it may be possible to secure the retention of the hedgerow via condition, I do not consider it would be reasonable to control its height.
22. I acknowledge that the appellant has sought to address the concerns of the previous Inspector by relocating the proposed stables, reducing their height and reducing the area of hardstanding. However, the height of the building would still be substantial and the mitigation of its effect on the character and

³ Fordent Holdings Ltd v SSCLG [2013] EWHC 2844 (Admin)

⁴ Europa Oil and Gas Ltd v SSCLG [2013] EWHC 2643 (Admin)

appearance of the countryside would be dependent upon the retention of existing vegetation and the planting of native trees.

23. The appellant asserts that he has planted a native species hedgerow along the western boundary of the site and additional native tree planting is proposed to further screen views of the stable from the west. Planting would take time to establish and could fail, be removed or be reduced in height. I do not therefore consider reliance on landscaping to be appropriate in this instance. Furthermore, the proposed access would introduce an urbanising feature and lighting and vehicle movements, which would be likely to be daily, would further compound the visual effect of the development.
24. Thus, the appeal scheme would cause moderate harm to the character and appearance of the area, contrary to the Framework which states that decisions should contribute to and enhance the natural environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Whether Very Special Circumstances Exist

25. I saw that the grazing horses have no shelter from inclement weather. Whilst I acknowledge that the welfare of horses is a factor which would weigh in favour of the appeal scheme. However, I am not persuaded that the appeal scheme is the only means of ensuring their welfare. The Advice on Pasture Management by The British Horse Society advises that shelter can either be man-made in the form of a field shelter or natural, for example trees or hedges. Rugs also provide a degree of shelter for the horse. I therefore afford this matter limited weight.

Conclusion

26. The Framework sets out the general presumption against inappropriate development within the Green Belt. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
27. The proposal would be inappropriate development in the terms set out in the Framework and lead to a limited loss of openness to the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. In addition, there would be moderate harm to the character and appearance of the area.
28. The welfare of horses does not clearly outweigh the totality of the harm. Consequently, very special circumstances do not exist, and the proposal would conflict with Policy DC1 of the DPD and the Framework. Therefore, for all of the reasons given above I conclude that the appeal should be dismissed.

M Savage

INSPECTOR